

FEDERAL REGISTER

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TITLE 3—THE PRESIDENT PROCLAMATION 2747

AMENDMENTS OF REGULATIONS RELATING TO
MIGRATORY BIRDS AND GAME MAMMALS,
BY THE PRESIDENT OF THE UNITED STATES
OF AMERICA
A PROCLAMATION

WHEREAS the Secretary of the Interior has adopted and has submitted to me for approval the following amendments of the regulations approved by Proclamation No. 2739 of July 31, 1947, relating to migratory birds and game mammals included in the terms of the Convention between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, and the Convention between the United States and the United Mexican States for the protection of migratory birds and certain game mammals concluded February 7, 1936:

AMENDMENTS OF MIGRATORY BIRD TREATY
ACT REGULATIONS ADOPTED BY THE SECRETARY OF THE INTERIOR

By virtue of and pursuant to the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755), and Reorganization Plan II (53 Stat. 1431), and having determined, in accordance with the provisions of the Administrative Procedure Act of June 11, 1946 (Public Law No. 404—79th Congress), that the amendments adopted herein are corrective and that further notice and public procedure thereon are impracticable and unnecessary, I, J. A. Krug, Secretary of the Interior, having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of migratory birds included in the terms of the Convention between the United States and Great Britain for the protection of migratory birds, concluded August 16, 1916, and the Convention between the United States and the United Mexican States for the protection of migratory birds and game mammals, concluded February 7, 1936, have determined when, to what extent, and by what means it is compatible with the terms of the said Act and conventions to allow the hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, exportation, and importation

of such birds and parts thereof and their nests and eggs, and in accordance with such determinations, do hereby amend the regulations approved by Proclamation No. 2739 of July 31, 1947, by deleting from Regulation 4 thereof, under the headings specified herein, those portions establishing open seasons on waterfowl, coot, rails, and gallinules in the State of Wisconsin and that portion establishing the open season on waterfowl and coot in the State of Oklahoma, and in lieu of such deleted portions do hereby adopt the following:

Waterfowl and coot.

"Wisconsin, October 7 to November 5.
"Oklahoma, October 21 to November 3 and December 16 to December 29."

Rails and gallinules.

"Wisconsin, October 7 to November 5."

These amendments are in accordance with the revised recommendations of the respective State Conservation Departments and in view of the fact that in respect to hunting in Wisconsin they advance the opening dates heretofore specified from October 21 to October 7 and in respect to hunting in Oklahoma the opening date heretofore specified is postponed from October 7 to October 21 and in view of the further fact that the present amendments are corrective of general regulations already in effect, it has been determined that these amendments shall become effective immediately upon publication thereof in the FEDERAL REGISTER.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the seal of the Department of the Interior to be affixed, this 25th day of September, 1947.

[SEAL]

J. A. KRUG,
Secretary of the Interior.

AND WHEREAS upon consideration it appears that approval of the foregoing amendments will effectuate the purposes of the aforesaid Migratory Bird Treaty Act:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by section 3 of the said Migratory Bird Treaty Act of July 3, 1918, do hereby approve and proclaim the foregoing amendments.

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1946 SUPPLEMENT

to the

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¹ Proc. 2747.

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IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 27th day of September in the year of our Lord nineteen hundred and [SEAL] forty-seven, and of the Independence of the United States of America the one hundred and seventy-second.

HARRY S. TRUMAN

By the President,

ROBERT A. LOVETT,
Acting Secretary of State.

[F. R. Doc. 47-8901; Filed, Sept. 29, 1947; 2:30 p. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 24—FORMAL EDUCATION REQUIREMENTS FOR APPOINTMENT TO CERTAIN SCIENTIFIC, TECHNICAL AND PROFESSIONAL POSITIONS

JUNIOR PROFESSIONAL ASSISTANT; AGRICULTURAL ECONOMIST AND FARM MANAGEMENT SUPERVISOR

Subparagraphs (11) and (20) of § 24.36 (a) are amended to read as follows:

§ 24.36 Junior Professional Assistant—(a) Educational requirements.

(11) Agricultural economist. Agricultural economists will assist in re-

search or other scientific or professional works in the field of agricultural economics, applying basic economic laws and principles in connection with the collection of agricultural data and will assist in the preparation of reports on farm policies and on the production and distribution of agricultural commodities. These duties require a working knowledge of the basic principles, concepts and terminology of agricultural economics and a knowledge of the application of statistics to economic research.

Applicants must have successfully completed one of the following:

(i) A full 4-year course, in a college or university of recognized standing, leading to a bachelor's degree in agricultural economics, or study leading to a degree in the closely allied fields of general economics, business administration, political science or sociology, including at least semester hours in agricultural economics and 3 semester hours in statistics; or

(ii) Courses in agricultural economics in a college or university of recognized standing, consisting of lectures and recitations totaling 21 semester hours in agricultural economics and 3 semester hours in statistics; plus additional appropriate experience or education which, when combined with the 21 semester hours in agricultural economics and 3 semester hours in statistics, will total 4 years of education and experience and will give the applicant the substantial equivalent of a 4-year college course. Study in the closely allied fields of general economics, political science, business administration (including marketing and transportation), economic geography, or sociology may be included in the 21 semester hours of agricultural economics. Provided, That the applicant shows at least 12 semester hours in purely agricultural economic subjects and 3 semester hours in statistics.

The following types of experience will be accepted in combination with education to complete the 4-year requirement: Progressively responsible experience in the collection and preliminary analysis of statistical and narrative economic data in such agricultural fields as production, storage, transportation, marketing, distribution, consumption, prices and income.

(20) Farm management supervisor. Farm management supervisors advise on or perform technical or other professional work in the field of farm management involving the extension of credit and the supervision of operators of family type farms. The duties of this position require a practical working knowledge of the basic principles, concepts and terminology of farm management, farm credit, and crop and livestock management.

Applicants must have successfully completed one of the following:

(i) A full 4-year course, in a college or university of recognized standing, leading to a bachelor's degree in farm management; in other fields within agricultural economics, in agronomy, animal husbandry, agricultural engineering, horticulture, agricultural education, or in general agriculture; or

(ii) A total of 40 semester hours including at least one course in farm management and the balance of the semester hours in at least three of the following groups: (a) Agricultural economics; (b) soils; (c) crops; (d) animal, dairy, or poultry husbandry; (e) feeds and feeding or animal nutrition; (f) agricultural engineering.

The following are types of experience which will be accepted in combination with education to complete the 4-year requirement:

Technical experience in the fields of rural rehabilitation work, vocational agriculture, soil conservation or agricultural extension.

Experience involving responsibility for the operation or management of a farm.

(Sec. 5, 58 Stat. 388; 5 U. S. C. Sup. 854)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] H. B. MITCHELL,
President.

[F. R. Doc. 47-8861; Filed, Sept. 30, 1947; 8:46 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter II—Production and Marketing Administration (Commodity Credit)

[1947 C. C. C. Dry Edible Bean Bulletin 1]

PART 276—DRY BEAN LOAN AND PURCHASE AGREEMENTS

1947 DRY EDIBLE BEAN LOAN AND PURCHASE PROGRAM BULLETIN

This bulletin states the requirements with respect to the 1947 Dry Edible Bean Program formulated by the Commodity Credit Corporation (hereinafter referred to as CCC) and the Production and Marketing Administration (hereinafter referred to as PMA). Loans and purchase agreements will be made available to eligible producers on eligible beans in accordance with this bulletin.

Sec.
276.101 Administration.
276.102 Availability of loans and purchase agreements.
276.103 Approved lending agencies.
276.104 Eligible producer.
276.105 Eligible beans.
276.106 Eligible storage.
276.107 Approved forms.
276.108 Determination of quantity.
276.109 Liens.
276.110 Service fees.
276.111 Set-offs.
276.112 Loan rate and settlement rates.
276.113 Purchase prices.
276.114 Interest rate.
276.115 Transfer of producer's equity.
276.116 Safeguarding the beans.
276.117 Insurance.
276.118 Loss or damage to the beans.
276.119 Personal liability.
276.120 Maturity and satisfaction.
276.121 Release of the beans.
276.122 Delivery of beans to CCC.
276.123 Purchase of notes.
276.124 Field offices of CCC.

AUTHORITY: §§ 276.101 to 276.124, inclusive, issued under secs. 1, 4, 55 Stat. 498, as amended; 15 U. S. C. Sup. 713 (a), 713a-8 (a); Article Third, Paragraph (b) of the Corporate Charter of CCC.

§ 276.101 Administration. The program will be administered in the field

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by the county agricultural conservation committees under the supervision of the State PMA committees. County committees will determine or cause to be determined the quantity and quality or grade of the beans, the amount of the loan, and the value of the beans delivered under a loan or purchase agreement. All loan and purchase agreement documents will be completed and approved by the county committee which will retain copies of all documents. The county committee may designate in writing certain employees of the county agricultural conservation association to execute such forms on behalf of the committee. The county committee will furnish the borrower with the names of local lending agencies approved for making disbursements on loan documents. In case the producer requests a direct loan from CCC, he will submit the loan documents to the county committee for transmittal.

§ 276.102 *Availability of loans and purchase agreements.* Loans will be available to producers of eligible beans stored in approved warehouses or farm storage structures except in the States of Texas, Oklahoma, Louisiana, Arkansas, Mississippi, Alabama, Georgia, Florida, and South Carolina. Purchase agreements will be available to producers of eligible beans in all areas regardless of storage facilities provided. Loans and purchase agreements will be available from September 1, 1947 to December 31, 1947, inclusive.

§ 276.103 *Approved lending agencies.* An approved lending agency shall be any bank, cooperative marketing association, corporation, partnership, individual, or other legal entity with which CCC has entered into a Lending Agency Agreement (Form PMA-97) or other form prescribed by the Administrator of PMA.

§ 276.104 *Eligible producer.* An eligible producer shall be any individual, partnership, association, corporation, or other legal entity producing eligible beans in 1947 as landowner, landlord, tenant, or sharecropper.

§ 276.105 *Eligible beans.* Eligible beans (hereinafter referred to as beans) shall be dry edible beans of the following classes: Pea and Medium White, Great Northern, Small White, Flat Small White, Pink, Small Red, Pinto, Cranberry, Light Red Kidney, Dark Red Kidney, Western Red Kidney, Standard Lima, and Baby Lima produced in 1947.

Beans tendered as collateral for a loan shall have a moisture content of not more than 18 percent and, after deduction of foreign material, shall contain not more than 10 percent of other defects as these terms are defined in the U. S. Standards for Beans. In addition, such beans shall not be musty, or sour, or heating, or hot, or weevily, or materially weathered, or shall not be beans which have any commercially objectionable odor, or which are otherwise of distinctly low quality.

In order to be eligible for a loan, beans stored on the farm must have been stored in the bin or granary for at least 30 days prior to inspection for measurement, sampling, and sealing, unless otherwise approved by the State PMA committee.

The beneficial interest in the beans must be in the person tendering them for loan or purchase and must always have been in him, or must have been in him and a former producer whom he succeeded before the beans were harvested.

§ 276.106 *Eligible storage.* Eligible storage for beans placed under loan shall meet the following requirements:

Eligible farm storage shall consist of farm bins or granaries which, as determined by the county committee, are of such substantial and permanent construction as to afford safe storage that will prevent physical loss, permit effective fumigation for the destruction of insects, and afford protection against rodents, other animals, thieves, and weather.

Eligible warehouse storage shall consist of public warehouses recommended by the county committee and approved by CCC for the storage of beans. Warehouse receipts referred to herein shall be negotiable warehouse receipts, representing eligible beans, issued by such warehouses and shall conform to requirements of CCC.

§ 276.107 *Approved forms.* The approved forms constitute the loan and purchase agreement documents which, together with the provisions of this bulletin, govern the rights and responsibilities of the producer and CCC. All forms may be obtained from county committees or from field offices of CCC. Any fraudulent representation made by a producer in obtaining a loan or purchase agreement, or in executing any of the loan or purchase agreement documents, will render him subject to prosecution under the United States Criminal Code.

Notes and chattel mortgages, and note and loan agreements, must be dated prior to January 1, 1948, and must be executed in accordance with these instructions, with State and documentary revenue stamps affixed thereto where required by law. Purchase agreements must be dated prior to January 1, 1948. Notes and chattel mortgages, note and loan agreements, and purchase agreements executed by an administrator, executor, or trustee will be acceptable only where legally valid.

(a) *Farm storage loans.* Approved forms shall consist of producers' notes on CCC Commodity Form A, secured by chattel mortgages on CCC Commodity Form AA.

(b) *Warehouse storage loans.* Approved forms shall consist of note and loan agreements on CCC Commodity Form B, secured by warehouse receipts representing beans stored in approved warehouses. All beans pledged as security for a loan on a single CCC Commodity Form B must be stored in the same warehouse.

(c) *Purchase agreement program.* Approved forms shall consist of the Purchase Agreement (Commodity Purchase 1) signed by the producer and approved by the county committee, warehouse receipts, and such other forms as may be prescribed by the Director, Grain Branch, PMA.

§ 276.108 *Determination of quantity placed under loan.* The term "sound beans" as used herein is defined in the U. S. Standards for Beans.

Under the loan program the quantity of bulk beans stored in an approved bin or granary on a farm shall be determined by dividing the number of cubic feet of beans in such bin or granary by 2.1 and multiplying the result by the percentage of sound beans as shown on the analysis of the sample. The result will be the net weight of sound beans in units of 100 pounds.

If beans are stored in sacks a deduction of $\frac{3}{4}$ pound per sack shall be made from the gross weight, and the result shall then be multiplied by the percentage of sound beans shown on the analysis of the sample.

The weight of beans stored in an eligible warehouse will be the net weight of sound beans shown on the warehouse receipt. To determine total loan value, the quantity of sound beans determined in accordance herewith shall be multiplied by the loan rate specified in § 276.112.

§ 276.109 *Liens.* Any beans tendered for loan, or delivered to CCC pursuant to a loan or purchase agreement, must be free and clear of all liens and encumbrances, or if liens or encumbrances exist on the beans, proper waivers must be obtained.

§ 276.110 *Service fees.* The producer shall pay a service fee of 2 cents per 100 pounds of sound beans with a minimum of \$3.00 on a farm stored loan and a service fee of one cent per 100 pounds of sound beans with a minimum of \$1.50 on a warehouse stored loan.

At the time he enters into a purchase agreement with CCC, the producer shall pay a preliminary service fee of \$1.50. An additional service fee of one cent per 100 pounds of beans in excess of 15,000 pounds shall be paid on beans delivered to CCC.

§ 276.111 *Set-offs.* A producer who is listed on the county debt register as indebted to any agency or corporation of the United States Department of Agriculture shall designate the agency or corporation to which he is indebted as the payee of the proceeds of the loan or purchase agreement to the extent of such indebtedness, but not to exceed that portion of the proceeds remaining after deduction of the service fees and amounts due prior lien holders. Indebtedness owing to CCC shall be given first consideration after claims of prior lien holders.

§ 276.112 *Loan rate and settlement rates—(a) Loan rate.* The amount advanced under a CCC loan will be \$5.00 per 100 pounds of sound beans.

(b) *Settlement rates.* Settlement rates on beans delivered by the producer to CCC in satisfaction of a loan shall be as follows per 100 pounds net weight:

Class	U. S. No. 1
Pea and Medium White.....	\$7.60
Great Northern:	
Idaho.....	7.25
Montana and all counties of Wyoming except Goshen, Laramie and Platte.....	7.35
Other areas.....	7.45
Small White and Flat Small White.....	7.80
Light Red Kidney, Dark Red Kidney and Western Red Kidney.....	9.10

Class	U. S. No. 1
Pinto:	
Utah and counties of Dolores, La Plata, Mesa, Montezuma, Montrose, San Miguel in Colorado	\$7.80
Other areas	7.90
Cranberry	8.45
Pink	7.90
Small Red	7.45
Baby Lima	7.85
Standard Lima	9.45

U. S. choice handpicked and U. S. Extra No. 1 Beans. Ten cents per 100 pounds net weight more than the applicable price for the same class of U. S. No. 1 beans set forth in this section.

U. S. No. 2 Beans. Fifteen cents per 100 pounds net weight less than the applicable price for the same class of U. S. No. 1 beans set forth in this section.

§ 276.113 *Purchase prices.* The purchase prices on beans delivered to CCC pursuant to a purchase agreement shall be the settlement rates listed in § 276.112.

§ 276.114 *Interest rate.* Loans shall bear interest at the rate of 3 percent per annum, and interest shall accrue from the date of disbursement on the loan, notwithstanding any other printed provisions of the note.

§ 276.115 *Transfer of producer's equity.* The right of the producer to transfer either his right to redeem beans under loan or his remaining interest may be restricted by CCC. The producer may not assign the purchase agreement.

§ 276.116 *Safeguarding the beans.* The producer who places beans under loan is obligated to maintain the farm storage structures in good repair, and to keep the beans in good condition.

§ 276.117 *Insurance.* CCC will not require the producer to insure beans placed under loan. However, if the producer insures beans placed under loan, such insurance shall inure to the benefit of CCC to the extent of its equity after first satisfying the producer's equity in the beans involved in any loss.

§ 276.118 *Loss or damage to the beans.* The producer is responsible for any loss in quantity or quality to beans placed under farm storage loan, except that uninsured physical loss or damage occurring without fault, negligence, or conversion on the part of the producer, and resulting solely from an external cause other than insect infestation or vermin, will be assumed by CCC, provided the producer has given the county committee immediate notice in writing of such loss or damage, and provided there has been no fraudulent representation made by the producer in the loan documents or in obtaining the loan.

§ 276.119 *Personal liability.* The making of any fraudulent representation by the producer in the loan documents or in obtaining the loan, or the conversion or unlawful disposition of any portion of the beans by him, shall render the producer personally liable for the amount of the loan and for any resulting expense incurred by any holder of the note.

§ 276.120 *Maturity and satisfaction—*
(a) *Loans.* Loans mature on demand

but not later than April 30, 1948. In the case of farm storage loans, the producer is required to pay off his loan or to deliver the mortgaged beans in accordance with instructions issued by the county committee. Credit will be given for the total quantity of beans delivered net weight at the applicable settlement rate, provided they were stored in the bins in which the beans under loan were stored. If the settlement value of the beans delivered exceeds the amount due on the loan, the amount of the excess shall be paid to the producer subject to the provision for set-offs in § 276.111. If the settlement value of the beans is less than the amount due on the loan, the amount of the deficiency, plus interest, shall be paid by the producer to CCC, or may be set off against any payment which would otherwise be made to the producer under any agricultural programs administered by the Secretary of Agriculture, or any other payments which are due or may become due to the producer from CCC or any other agency of the United States. In the event the farm is sold or there is a change of tenancy, the beans may be delivered before the maturity date of the loan upon prior approval by the county committee.

In the case of warehouse-storage loans, if the producer does not repay his loan by maturity date, CCC shall have the right to sell the beans in satisfaction of the loan in accordance with the provisions of the note and loan agreement. If the warehouse receipt represents identical thresher-run lots of beans, the producer must arrange to resubmit warehouse receipts on cleaned and bagged beans after maturity date in accordance with instructions issued by the county committee.

If a loan on farm stored beans is not satisfied upon maturity by payment or by delivery of the beans after maturity date, the holder of the note may remove the beans, and settlement shall be made on the basis of the applicable settlement rate in § 276.112, minus any expense incurred in the removal and processing of the beans.

(b) *Purchase agreements.* The producer who signs a purchase agreement (Commodity Purchase 1) shall not be obligated to deliver any quantity of beans to CCC, however, if such producer wishes to sell beans to CCC, he shall, within 30 days after May 1, 1948, or such earlier date as the Administrator of PMA may request, submit warehouse receipts representing eligible beans stored in an approved warehouse to the county committee or, in the case of beans stored in other than an approved warehouse, he shall notify the county committee of his intention to sell and request delivery instructions. CCC shall have no obligation to accept delivery of beans on which a warehouse receipt, or a notice of intention to sell, was not submitted to the county committee within prescribed delivery period.

The producer must then complete delivery within a 15-day period immediately following the date the county committee issues delivery instructions, unless the county committee determines more time is needed for delivery. When

delivery is completed, payment shall be made as prescribed by the Administrator of PMA, subject to the provisions for set-offs in § 276.111. The producer shall direct to whom payment of the purchase price will be made.

§ 276.121 *Release of the beans.* The producer may at any time prior to delivery to CCC obtain release of the beans under loan by paying to the holder of the note, or note and loan agreement, the principal amount thereof, plus interest. If the note is held by an out-of-town lending agency or by CCC, the producer may request that the note be forwarded to a local bank for collection. In such case, where CCC is the holder of the note, the local bank will be instructed to return the note if payment is not effected within 15 days. All charges in connection with the collection of the note shall be paid by the producer. Upon repayment of a farm-storage loan, the county committee should be requested to release the mortgage by filing an instrument of release or by a marginal release on the county recording office records. Partial release of the beans may be arranged with the county committee by paying to the holder of the note the amount of the loan plus charges and accrued interest, represented by the quantity of beans to be released. In case of warehouse storage loans, each partial release must cover all beans under one warehouse receipt number.

§ 276.122 *Delivery of beans to CCC.* If beans are delivered by the producer to CCC pursuant to a purchase agreement or in satisfaction of a loan, the following terms and conditions shall apply with respect to packaging, quantity, quality, delivery point, and charges:

(a) *Packaging.* Beans delivered to CCC shall be packed 100 pounds net in new bags made of 36-inch, 10.4 ounce A or B quality common jute or heavier weight jute, or in new cotton bags, 36-inch 2.35 yard osnaberg or 40-inch 2.50 yard osnaberg or bags equal to or better; if new bags are not available, No. 1 used bags made of 36-inch 10.4 ounce Angus jute or heavier, free of holes, patches, or other defects, satisfactory for the proper conservation of the product, and thoroughly cleaned before being filled may be used. Bag seams must be sufficiently strong to develop the full strength of the cloth. Bags will be marked as prescribed by CCC prior to delivery.

(b) *Determination of quantity.* The gross weight of beans delivered to CCC from other than an approved warehouse will be determined on the basis of official weight at the point of delivery evidenced by scale tickets, and shall be approved by the producer. The net weight of beans delivered to CCC shall be the gross weight minus the tare weight of the sacks. The quantity of beans delivered to CCC in an approved warehouse shall be the net weight of beans specified in the warehouse receipt purchased by CCC.

(c) *Determination of quality.* Beans shall be of the classes specified in § 276.105, grading U. S. No. 2 or better as

RULES AND REGULATIONS

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

PART 960—IRISH POTATOES GROWN IN MICHIGAN, WISCONSIN, MINNESOTA, AND NORTH DAKOTA

DETERMINATION RELATIVE TO BUDGET OF EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR THE 1947-48 FISCAL PERIOD

The North Central Potato Commission, established under Marketing Order No. 50 (7 CFR, Cum. Supp. 960.1 et seq.), regulating the handling of Irish potatoes grown in the States of Michigan, Wisconsin, Minnesota, and North Dakota, is the agency authorized to administer the terms and provisions of Order No. 60 among which the provisions of § 960.12 authorize said committee to incur such expenses and collect such assessments as the Secretary finds may be necessary. The North Central Potato Committee has presented a proposed budget of expenses and proposed rates of assessments for the current 1947-48 fiscal period, as defined in Order No. 60, ending June 30, 1948. After considering all relevant factors, including the proposed budget or expenses and the proposed rates of assessment submitted by the North Central Potato Committee, it is hereby found and determined that:

§ 980.201 *Budget of expenses and rate of assessment for the 1947-48 fiscal period.* (a) The expenses necessary to be incurred by the North Central Potato Committee, established pursuant to the aforesaid Order No. 60, to enable such committee to perform its functions pursuant to provisions of the aforesaid order and in accordance with regulations recommended by the aforesaid committee and approved by the Secretary, during the fiscal period beginning July 1, 1947 and ending June 30, 1948, both dates inclusive, will amount to \$35,337.00. The rate of assessment to be paid by each handler, during the aforesaid fiscal period and in accordance with the terms and provisions of the aforesaid Order No. 60, who first handles potatoes shall be \$1.00 per railroad car, or its equivalent, or \$1.00 per truck load, or its equivalent, of 201 bags or greater number (bag units to be computed as 100 pounds each), or \$0.50 per truck load, or its equivalent, of 200 bags or less of potatoes (bag units to be computed as 100 pounds each), shipped by him as the first shipper thereof during such fiscal period; and such rate of assessment is hereby approved as each such handler's pro rata share of the aforesaid expenses.

(b) It is hereby further found and determined that compliance with the general notice of proposed rule making, and the 30 day effective date requirement of the Administrative Procedure Act (Public Law 404, 79th Cong., 60 Stat. 237) is impracticable, unnecessary, and contrary to the public interest in that: (1) Harvesting and marketing of potatoes grown in the States of Michigan, Wisconsin, Minnesota, and North Dakota has already begun for the current 1947-48 season; (2) the North Central Potato

defined by the U. S. Standards for Beans and as evidenced by a Federal or Federal-State inspection certificate, issued by or under the supervision of the Grain Branch, PMA.

(d) *Delivery point.* Beans shall be delivered in an approved warehouse, or to an assembly point, or f. o. b. car, country shipping point, as specified by the county committee.

(e) *Charges.* All charges, including storage, cleaning, bagging, inspection fees, etc., incurred on beans up to the time of delivery to CCC shall be paid by the producer prior to such delivery or shall be deducted from the settlement or purchase price.

If beans are delivered to CCC which do not meet the requirements of paragraph (c) of this section, the quantity, quality, and settlement or purchase value shall be determined by or under the supervision of the appropriate CCC field office.

§ 276.123 *Purchase of notes.* CCC will purchase, from approved lending agencies, notes evidencing approved loans which are secured by chattel mortgages or negotiable warehouse receipts. The purchase price to be paid by CCC will be the principal sums remaining due on such notes, plus accrued interest from the date of disbursement to the date of purchase at the rate of 1½ percent per annum. Lending agencies are required to submit a weekly report to CCC and to the county committees on 1940 CCC Form F, or such other forms as CCC may prescribe, of all payments received on producers' notes held by them, and they are required to remit promptly to CCC an amount equivalent to 1½ percent interest per annum on the amount of the principal collected from the date of disbursement to the date of payment. Lending agencies should submit notes and reports to the CCC field office serving the area.

§ 276.124 *Field offices of CCC.* The field offices of CCC and the areas served by them are shown in this section:

Address and Area

623 South Wabash Avenue, Chicago 5, Ill.: Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia.

300 Interstate Building, 418 East Thirteenth Street, Kansas City 6, Mo.: Alabama, Arkansas, Colorado, Georgia, Florida, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, South Carolina, Texas, Wyoming.

326 McKnight Building, Minneapolis 1, Minn.: Minnesota, Montana, North Dakota, South Dakota, Wisconsin.

Eastern Building, 515 Southwest Tenth Street, Portland 5, Oreg.: Arizona, California, Idaho, Nevada, Oregon, Utah, Washington.

[SEAL] JESSE B. GILMER,
President,
Commodity Credit Corporation.

SEPTEMBER 26, 1947.

[F. R. Doc. 47-8872; Filed, Sept. 30, 1947; 8:46 a. m.]

Committee has recommended that regulation of shipments, pursuant to the aforesaid Order No. 60, should begin with the opening of the 1947-48 marketing season for potatoes from this production area which necessarily means that expenses must be incurred in connection with such regulations; (3) itinerant truckers operate in the marketing of potatoes from the production area included under Order No. 60; (4) in order for regulatory assessments to be collected, especially from those handlers who do not have a definite or an established place of business within the production area, it is essential that the specification of the assessment rate should be issued immediately so as to enable the North Central Committee to perform its duties and functions under said marketing order.

(c) As used herein, the terms "handler", "handle", "ship", "shipper", "potatoes", and "fiscal period" shall have the same meaning as is given to each such term in the said marketing order.

(48 Stat. 31, as amended; 7 U. S. C., 601 et seq.; 7 CFR, Cum. Supp., 960.2 et seq.)

Done at Washington, D. C., this 26th day of September 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-8873; Filed, Sept. 30, 1947; 8:46 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 5033]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

COLUMBIA RIVER PACKERS ASSN., INC.

§ 3.45 (e) *Discriminating in price—Indirect discrimination—Brokerage payments.* In connection with the sale of sea-food products or other merchandise in commerce, paying or granting, directly or indirectly, to any buyer, anything of value as brokerage, or any commission, compensation, allowance, or discount in lieu thereof, upon purchases made for such buyer's own account; prohibited. (Sec. 2c, 49 Stat. 1527; 15 U. S. C., sec. 13c) [Cease and desist order, Columbia River Packers Association, Inc., Docket 5033, Aug. 25, 1947]

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 25th day of August A. D. 1947.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before a trial examiner of the Commission theretofore duly designated by it, the report of the trial examiner upon the evidence and the exceptions to such report, briefs in support of and in opposition to the complaint, and oral argument; and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of subsection (c) of section 2 of an act of Congress entitled "An act to supple-

ment existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (the Clayton Act), as amended by the Robinson-Patman Act, approved June 19, 1936 (15 U. S. C. sec. 13):

It is ordered, That the respondent, Columbia River Packers Association, Inc., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the sale of sea-food products or other merchandise in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, do forthwith cease and desist from: Paying or granting, directly or indirectly, to any buyer, anything of value as brokerage, or any commission, compensation, allowance, or discount in lieu thereof, upon purchases made for such buyer's own account.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 47-8856; Filed, Sept. 30, 1947;
8:53 a. m.]

[Docket No. 5357]

PART 3—DIGEST OF CEASE AND DESIST
ORDERS

PUBLISHERS SERVICE CO., INC.

§ 3.55 (m) *Using contest schemes unfairly—Puzzle prize contests.* In connection with the offering for sale, sale, and distribution of respondent's books or publications in commerce, selling or attempting to sell respondent's books or publications by means of any sales plan or method of merchandising in connection with which it is falsely represented, either directly or by implication, that the opportunities of winning by a participant in a puzzle contest are enhanced or are greater than is actually the fact by using any such representations as that (a) only a small number of persons are tied for the award of the first prize at the close of the original contest; (b) the scarcity of contestants competing in the so called "first tie-breaking contest" greatly enhances the prospect that the contestant participating therein and continuing to purchase respondent's books or publications as required in connection therewith will win the first prize or other valuable prize; (c) the successful completion of the first tie-breaking contest means that the contestant will win one of the prizes offered if he or she continues to purchase respondent's books or publications and solves the final group of tie-breaking puzzles; or (d) any contestant who successfully completes the final tie-breaking contest can double the amount of the cash prize or the value of such other prize, of which the contestant is the actual but unannounced winner, if he or she purchases an extra set of respondent's books or publications; pro-

hibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U. S. C., sec. 45b) [Cease and desist order, Publishers Service Company, Inc., Docket 5357, Aug. 25, 1947]

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 25th day of August A. D. 1947.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the substitute answer of the respondent, in which answer respondent admits all of the material allegations of fact set forth in said complaint and waives all intervening procedure and further hearing as to said facts; and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Publishers Service Company, Inc., a corporation of the State of New York, and its officers, representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of its said books or publications in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(a) Selling or attempting to sell respondent's books or publications by means of any sales plan or method of merchandising in connection with which it is falsely represented, either directly or by implication, that the opportunities of winning by a participant in a puzzle contest are enhanced or are greater than is actually the fact by the use of any of the following or similar representations:

(1) That only a small number of persons are tied for the award of the first prize at the close of the original contest.

(2) That the scarcity of contestants competing in the so-called "first tie-breaking contest" greatly enhances the prospect that the contestant participating therein and continuing to purchase respondent's books or publications as required in connection therewith will win the first prize or other valuable prize.

(3) That the successful completion of the first tie-breaking contest means that the contestant will win one of the prizes offered if he or she continues to purchase respondent's books or publications and solves the final group of tie-breaking puzzles.

(4) That any contestant who successfully completes the final tie-breaking contest can double the amount of the cash prize or the value of such other prize, of which the contestant is the actual but unannounced winner, if he or she purchases an extra set of respondent's books or publications.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 47-8857; Filed, Sept. 30, 1947;
8:54 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Departmental Reg. OR 7]

PART 1—FUNCTIONS AND ORGANIZATION

MISCELLANEOUS AMENDMENTS

AUGUST 1, 1947.

Under authority contained in R. S. 161 (5 U. S. C. 22), and pursuant to section 3 of the Administrative Act of 1946 (60 Stat. 238), Part 1 of Title 22 of the Code of Federal Regulations is amended as indicated hereunder.

1. Section 1.160 is revised to read as follows:

§ 1.160 *Counselor*—(a) *Purpose.* To advise and assist the Secretary in the consideration and solution of major problems of foreign relations as assigned to him.

(b) *Major functions.* The Counselor serves with the rank of an Assistant Secretary of State and performs such functions as may be assigned to him from time to time by the Secretary or the Under Secretary.

2. Section 1.500 is revised to read as follows:

§ 1.500 *Assistant Secretary—Economic Affairs*—(a) *Purpose.* To advise and assist the Secretary in the development and implementation of foreign economic policy with respect to international trade, finance, and economic development and security.

(b) *Major functions.* The office of Assistant Secretary performs the following functions:

(1) Initiates, formulates, and coordinates foreign economic policy and action.

(2) Guides and directs economic programs and policy-development for the Offices under its jurisdiction.

(3) Through a Special Assistant for Economic and Social Council Affairs:

(i) Coordinates substantive matters coming before the Economic and Social Council and recommends United States position by consulting with appropriate offices in the Department and other Federal agencies and interdepartmental committees.

(ii) Affords the liaison point between the United States representative on the Economic and Social Council of the United Nations and the various Federal agencies and interdepartmental committees.

(iii) Provides continuing liaison with other Federal agencies regarding their interest in economic and social matters coming before the United Nations or before specialized international organizations, the International Monetary Fund, and the International Bank for Reconstruction and Development, in their relationship to the Economic and Social Council.

(4) Through a Special Assistant for the Relief-Assistance Program:

(i) Is responsible for developing policy and coordinating action within the Department on all matters arising under Public Law 84 of the 80th Congress (hereunder referred to as the Act), using the established units and channels of the Department to the maximum extent.

(ii) Advises and assists the Secretary, the Under Secretary for Economic Af-

fairs, and the Assistant Secretary for Economic Affairs on all matters arising under the Act, including those arising from activities of the Department and of all other Executive departments, agencies, and independent establishments of the Government.

(iii) Coordinates action required for the development of relief programs under the Act, and makes recommendations as to the approval of such programs to the Under Secretary for Economic Affairs or the Assistant Secretary for Economic Affairs.

(iv) Concurs in all allocations of funds made for the purpose of carrying out the programs approved by the Under Secretary for Economic Affairs or the Assistant Secretary for Economic Affairs. (The Special Assistant may delegate this responsibility.)

(v) Serves as the normal channel for communications to and from the Field Administrator and United States diplomatic missions concerning matters arising under the act.

(vi) Consults with the representatives of foreign governments in Washington concerning matters arising under the act.

(vii) Prepares such reports and provides such information as may be necessary and appropriate concerning the activities of the Department and of all Executive departments, agencies, and independent establishments of the Government under authority of the act.

(5) Through an Economic Policy Information Service:

(i) Edits and publishes the weekly *Current Economic Developments*, which records the work of the economic offices of the Department.

(ii) Edits and publishes a *Secret Daily Economic Summary*.

(iii) Prepares special reports and summaries in the economic field.

(iv) Supervises the technical aspect of the economic information and reporting activities in the various economic offices of the Department.

(v) Establishes procedures for the guidance of the information officers and representatives in the offices, to assure clear, comprehensive, accurate, and consistent reporting on economic matters.

(6) Through a Secretariat for the Executive Committee on Economic Foreign Policy:

(i) Anticipates and brings to the attention of the Executive Committee for coordination and policy recommendations, problems arising in the Federal agencies that involve United States foreign economic relations.

(ii) Recommends procedure, including the establishment of subcommittees, for the disposition of the problems.

(iii) Coordinates the activities of the Executive Committee, its subcommittees, and other related interdepartmental committees, to assure full coverage on all questions and problems to avoid overlapping and conflict.

(iv) Performs administrative services to assure efficient operation of the committee.

(c) *Organization.* The office of the Assistant Secretary consists of the Assistant Secretary, Special Assistant for Economic and Social Council Affairs,

Special Assistant for the Relief-Assistance Program, Economic Policy Information Service, and Secretariat for the Executive Committee on Economic Foreign Policy, and has jurisdiction over the Office of International Trade Policy, Office of Financial and Development Policy, and Office of the Foreign Liquidation Commissioner.

3. In § 1.520 paragraph (c) is amended to read as follows:

§ 1.520 *Office of Financial and Development Policy.* * * *

(c) *Organization.* The Office consists of the office of the Director, including advisers and the Information Unit; Executive Officer; Division of Financial Affairs; Division of Investment and Economic Development; and Division of Lend-Lease and Surplus War Property Affairs; and Division of Occupied-Area Economic Affairs.

4. Section 1.530 *Office of Economic Security Policy* is rescinded.

5. Section 1.1000 is revised to read as follows:

§ 1.1000 *Assistant Secretary—Political Affairs.*—(a) *Purpose.* To advise and assist the Secretary in the formulation and coordination of policy and action for the conduct of United States relations with the various nations.

NOTE. The Assistant Secretary—Political Affairs has jurisdiction over his immediate office and, in accordance with DA 607, over the Office of American Republic Affairs, Office of European Affairs, Office of Near Eastern and African Affairs, and Office of Far Eastern Affairs. His major functions will be issued at a later date.

6. In § 1.1800 paragraph (b) is amended to read as follows:

§ 1.1800 *Assistant Secretary—Administration.* * * *

(b) *Major functions.* The Assistant Secretary is responsible for the development of a sound organizational structure for the Department and the Foreign Service; the establishment of appropriate budgetary and administrative procedures throughout the Department and the Foreign Service; the establishment of the management controls necessary to assure the proper administrative implementation of substantive policies and programs approved by the Secretary; and for the effective performance, among others, of the following functions:

(1) Supervision and control over the organization pattern of the Department and the Foreign Service, and the component offices, divisions, and other units thereof.

(2) Exercise of the authority vested in the Secretary of State by statute, Executive order, or otherwise to allocate funds made available to the Secretary of State or the Department of State, except as otherwise specifically provided by the terms of any other order or regulation.

(3) Preparation of the annual budget estimates; and supervision over the use of appropriated funds in accordance with Congressional limitations, administrative objectives, and policies of the President and the Secretary.

(4) Administration of United States participation in international conferences.

(5) Direction over personnel-management of the Department and the Foreign Service.

(6) Operation of the procurement, communication, and transportation services.

(7) Provision, maintenance, and operation of the physical establishments in the United States and abroad.

(8) Provision for the internal security of the Department and the Foreign Service.

(9) Protection of American interests through administration of the laws and programs for passport, visa, and munition control, and other pertinent laws.

7. In § 1.1810 paragraph (c) is amended to read as follows:

§ 1.1810 *Office of Controls.* * * *

(c) *Organization.* The Office is composed of the Passport Division, Visa Division, Division of Protective Services, Division of Foreign Activity Correlation, Division of Security and Investigations, and Munitions Division.

8. In § 1.1840 paragraph (c) is amended to read as follows:

§ 1.1840 *Office of Budget and Planning.* * * *

(c) *Organization.* The Office consists of the Division of Organization and Budget, Division of Finance, and Division of Procurement Control.

This regulation is effective on the date of publication in the *FEDERAL REGISTER*.

For the Secretary of State.

STANLEY T. OREAR,
Chief, Division of
Organization and Budget.

[F. R. Doc. 47-8853; Filed, Sept. 30, 1947; 8:46 a. m.]

TITLE 24—HOUSING CREDIT

Chapter I—Federal Home Loan Bank Administration

[No. 47]

PART 8—MISCELLANEOUS

PUBLICATION OF REGULATIONS

SEPTEMBER 25, 1947.

Notice having been given pursuant to § 8.3 (c) of the rules and regulations for the Federal Home Loan System (24 CFR 8.3 (c)) said section is hereby amended by striking the last sentence of paragraph (c) as follows, effective October 1, 1947: "A copy of each proposed amendment or rule shall be filed with the Federal Home Loan Bank Review and shall be published in the next available issue of such Review."

(Sec. 17, 47 Stat. 736, sec. 3, 60 Stat. 238; 12 U. S. C. 1437, 5 U. S. C. Sup. 1002; Reorganization Plan No. 3 of 1947, 12 F. R. 4981)

By the Home Loan Bank Board.

[SEAL] J. FRANCIS MOORE,
Secretary.

[F. R. Doc. 47-8875; Filed, Sept. 30, 1947; 8:46 a. m.]

Chapter II—Federal Savings and Loan System

[No. 50]

PART 201—PROMULGATION, AMENDMENT AND REPEAL OF RULES AND REGULATIONS

PUBLICATION OF REGULATIONS

SEPTEMBER 25, 1947.

Resolved, that § 201.1 of the rules and regulations for the Federal Savings and Loan System (24 CFR 201.1) is hereby amended, effective October 31, 1947, by striking from the first sentence thereof the following: "in the Federal Home Loan Bank Review, in the issue immediately following the publication thereof."

(Sec. 5 (a), 48 Stat. 132, sec. 3, 60 Stat. 238; 12 U. S. C. 1464 (a), 5 U. S. C. Sup. 1002; Reorganization Plan No. 3 of 1947, 12 F. R. 4981)

It is further resolved, that the foregoing amendment is of a procedural character adopted in accordance with § 201.2 of the rules and regulations for the Federal Savings and Loan System (24 CFR 201.2).

By the Home Loan Bank Board.

[SEAL] J. FRANCIS MOORE,
Secretary.

[F. R. Doc. 47-8877; Filed, Sept. 30, 1947; 8:47 a. m.]

[No. 48]

PART 201—PROMULGATION, AMENDMENT AND REPEAL OF RULES AND REGULATIONS

PUBLICATION OF REGULATIONS

SEPTEMBER 25, 1947.

Notice having been given pursuant to § 201.2 (c) of the rules and regulations for the Federal Savings and Loan System (24 CFR 201.2 (c)) said section is hereby amended by inserting a period after the word "Council" in the last sentence of paragraph (c) thereof and striking the following from said sentence, effective October 1, 1947: "and filed with the editor of the Federal Home Loan Bank Review for publication in the next available issue of such Review."

(Sec. 5 (a), 48 Stat. 132, sec. 3, 60 Stat. 238; 12 U. S. C. 1464 (a), 5 U. S. C. Sup. 1002; Reorganization Plan No. 3 of 1947, 12 F. R. 4981)

By the Home Loan Bank Board.

[SEAL] J. FRANCIS MOORE,
Secretary.

[F. R. Doc. 47-8879; Filed, Sept. 30, 1947; 8:56 a. m.]

[No. 52]

PART 202—INCORPORATION, CONVERSION, AND ORGANIZATION

REVISION OF CHARTER K

SEPTEMBER 25, 1947.

Resolved that § 202.9 of the rules and regulations for the Federal Savings and Loan System is hereby amended, effective October 1, 1947, to read as follows:

No. 192—2

§ 202.9 *Charter and bylaws*—(a) *Issuance of Charter K*. If the Petition for Charter is approved, the following charter (hereinafter referred to as a "Charter K") shall be issued:

CHARTER K

Pursuant to the provisions of section 5 of the Home Owners' Loan Act of 1933, the following charter is hereby issued:

1. *Name*. The name of the Federal savings and loan association hereby chartered (hereinafter referred to as the "association") is _____ Federal Savings and Loan Association _____

2. *Office*. The home office of the association shall be located at _____, in the County of _____, State of _____

No office of the association shall be moved from its immediate vicinity except as may be provided in regulations made by the Home Loan Bank Board.

3. *Objects and powers*. The objects of the association are to promote thrift by providing a convenient and safe method for people to save and invest money and to provide for the sound and economical financing of homes. The statute, this charter, and rules and regulations made thereunder provide for examination and supervision and at the same time for the protection of all private rights concerned, and shall be construed in keeping with the best practices of local mutual thrift and home financing institutions in the United States.

The association shall act as fiscal agent of the Government when designated for that purpose by the Secretary of the Treasury, under such regulations as he may prescribe, and shall perform all such reasonable duties as fiscal agent of the Government as he may require. The association may act as agent for any other instrumentality of the United States when designated for that purpose by any such instrumentality.

The association shall have perpetual succession and power to sue and be sued, complain and defend in any court of law or equity; to have a corporate seal, affixed by imprint, facsimile or otherwise; to appoint officers and agents as its business shall require, and allow them suitable compensation; to have bylaws not inconsistent with the Constitution or laws of the United States, this charter, and rules and regulations of the Home Loan Bank Board, providing for the management of its property and regulation and government of its affairs; to wind up and dissolve, merge, consolidate, or reorganize in the manner provided by law and rules and regulations made thereunder; and to conduct business in the territory of the United States except as otherwise limited in this charter. The association may purchase, hold, and convey real and personal estate consistent with its objects, purposes, and powers, may mortgage or lease any real and personal estate; and may take such property by gift, devise, or bequest. Unless authorized by the Home Loan Bank Board, the association may not invest in an office building or buildings for the transaction of the business of the association an amount representing the cost of land and buildings in excess of the sum of its undivided profits and reserve accounts.

In addition to the foregoing powers expressly enumerated, the association shall have power to do all things reasonably incident to the accomplishment of its express objects and the performance of its express powers. The association shall have such powers as are conferred by law and shall exercise its powers in conformity with the Home Owners' Loan Act of 1933 and all laws of the United States as they now are, or as they may hereafter be amended, and with the rules and regulations made thereunder which are not in conflict with this charter.

4. *Members*. All holders of share accounts of the association and all borrowers there-

from shall be deemed and held to be members thereof. In the consideration of all questions requiring action by the members, each holder of a share account shall be permitted to cast one vote for each \$100, or fraction thereof, of the participation value of his share account. A borrowing member shall be permitted, as a borrower, to cast one vote, and to cast the number of votes to which he may be entitled as the holder of a share account. No member, however, shall cast more than 50 votes. Voting may be by proxy. Any number of members present at a regular or special meeting of the members shall constitute a quorum. A majority of all votes cast at any meeting of members shall determine any question. The members who shall be entitled to vote at any meeting of the members shall be those owning share accounts and borrowing members of record on the books of the association at the end of the calendar month next preceding the date of the meeting of members.

5. *Directors and officers*. The association shall be under the direction of a board of directors of not less than 5 nor more than 15, as determined and elected by the members. Directors shall be elected by ballot from the membership of the association, and a director shall cease to be a director when he ceases to be a member. At the first meeting of members of the association, directors shall be elected to serve until the first annual meeting and until their successors are duly elected and qualified. Thereafter directors shall be elected for periods of 3 years and until their successors are elected and qualified, but provision shall be made for the election of approximately one-third of the board of directors each year. In the event of a vacancy, including vacancies created by an increase by vote of the members of the number of directors within the limits hereinabove specified, the board of directors may fill the vacancy, if the members fail so to do, by electing a director to serve until the next annual meeting of the members, at which time a director shall be elected to fill the vacancy for the unexpired term. At its meeting, which shall be held as soon as practicable after the annual meeting of members, the board of directors shall elect a president, one or more vice presidents, a secretary, and a treasurer. It may appoint such additional officers and employees as it may from time to time determine. The offices of secretary and treasurer may be held by the same person, and a vice president may also be either the secretary or the treasurer. The term of office of all officers shall be one year or until their respective successors are elected and qualified; but any officer may be removed at any time by the board of directors. In the absence of designation from time to time of powers and duties by the board of directors, the officers shall have such powers and duties as generally pertain to their respective offices.

6. *Share capital*. The share capital of the association shall consist of the aggregate of payments upon share accounts and dividends credited thereto less redemption and repurchase payments. The participation value in the share capital of each share account held by a member shall be the aggregate of payments upon such share account and dividends credited thereto less redemption and repurchase payments. Share accounts of \$100 or multiples thereof may be known as investment share accounts, consisting of full-paid income shares. All other share accounts shall be known as savings share accounts. Payments upon share accounts shall be called share payments. Outstanding share accounts, if any, created pursuant to a previous charter of the association issued by the Federal Home Loan Bank Board, the Federal Home Loan Bank Administration, or the Home Loan Bank Board shall continue to be known and treated as provided in the Federal charter in effect at the time each such share account was created, until exchanged for investment or savings share accounts. Share

accounts may be issued for cash, or property in which the association is authorized to invest, and, in the absence of actual fraud in the transaction, the value of property taken in payment therefor, as determined by the board of directors, shall be conclusive. All share accounts shall be nonassessable, and no holder thereof shall be responsible for any losses incurred by the association beyond the loss of the participation value of his share accounts at the time the loss is determined.

7. *Ownership of share accounts.* All share accounts shall be represented by share account books containing a certificate of membership and evidencing the participation value of the share account, except that investment share accounts may be represented by separate membership certificates. Share accounts may be purchased and held absolutely by, or in trust for, any person, including an individual, male, female, adult or minor, single or married, a partnership, association, and corporation. The receipt or acquittance of any member, including a minor person or a married woman, who holds a share account shall be a valid and sufficient release and discharge of the association for any payment to such person on any share account. Two or more persons may hold share accounts jointly in any manner permitted by law. Trustees and other fiduciaries, including, but not limited to, fiduciaries empowered to invest in first mortgages, may invest in share accounts. Share accounts shall be transferable only upon the books of the association and upon proper application by the transferee and the acceptance of the transferee as a member upon terms approved by the board of directors. The association may treat the holder of record of share accounts as the owner for all purposes without being affected by any notice to the contrary unless the association has acknowledged in writing notice of a pledge. The association shall not directly or indirectly charge any membership, admission, repurchase, withdrawal, or any other fee or sum of money, for the privilege of becoming, remaining, or ceasing to be a member of the association.

8. *Power to obtain advances.* The association shall have power to obtain advances of not more than an amount equal to one-half of its share capital on the date of the advance. A subsequent reduction of share capital shall not affect in any way outstanding obligations for advances. The association shall not have power to obtain advances from any source other than a Federal home loan bank of more than an amount equal to 10 percent of its share capital on the date of the advance. The association may pledge or otherwise encumber any of its assets to secure its debts. The association shall not accept deposits from the public or issue any evidence of indebtedness except for advances. It shall not represent itself as a deposit institution.

9. *Reserves, undivided profits, and dividends.* As of June 30 and December 31 of each year, after payment or provision for payment of all expenses and appropriate transfers to the reserve required below, and additional transfers to other reserve accounts, and provision for an undivided profits account, the board of directors shall declare as dividends the remainder of the net earnings of the association for the 6 months' period. All dividends shall be declared as of said dividend dates. The board of directors may declare dividends as of said dividend dates payable out of the amounts remaining from previous periods in the undivided profits account. Profits to holders of share accounts shall be termed dividends (except bonus payments) and shall not be referred to as interest. The association shall maintain the reserve required for insurance of accounts by sufficient credits on each dividend date. If and whenever the aggregate reserves of the association (less reserve for bonus) are not equal to 10

percent of the share capital, the association shall, at each dividend date, transfer to reserves (other than reserve for bonus) a credit equivalent to at least 5 percent of the net earnings of the association, until such aggregate reserves are equal to 10 percent of the share capital. Any losses may be charged against reserves. Dividends upon investment share accounts shall be promptly paid in cash as of the dividend date. Dividends on savings share accounts shall be credited to such share accounts on the books of the association as of the dividend date. All holders of share accounts shall participate equally in dividends pro rata to the participation value of their share accounts; provided that the association shall not be required to credit dividends on inactive share accounts of \$5 or less. Except as provided above, dividends shall be declared on the participation value of each share account at the beginning of the dividend period, plus the share payments made during the dividend period (less amounts repurchased and noticed for repurchase and, for dividend purposes, deducted from the latest previous share payments), computed at the dividend rate for the time invested, determined as provided below. The date of investment shall be the date of actual receipt of such share payments by the association, unless the board of directors fix a date, not later than the tenth of the month, for determining the date of investment of payments on either investment or savings share accounts or on both types of share accounts. Share payments, affected by such determination date, received by the association on or before such determination date, shall receive dividends as if invested on the first of such month. Share payments, affected by such determination date, received subsequent to such determination date, shall receive dividends as if invested on the first of the next succeeding month. All holders of share accounts, shall be entitled to equal distribution of net assets, pro rata to the value of their share accounts, in the event of voluntary or involuntary liquidation, dissolution, or winding up of the association.

10. *Bonus and bonus reserve.* In order to stimulate systematic thrift and to provide regular funds for the financing of homes, the members, by bylaw provision, may obligate the association to pay a cash bonus as follows:

(a) *Short-term bonus.* If, after the adoption of the bonus plan, a member desiring a short-term bonus shall agree to make regular monthly share payments of any specified amount on a savings share account until the participation value thereof shall equal 100 times the agreed monthly payment, and if the agreed monthly payments shall be made each and every month thereafter until the participation value thereof shall equal 100 times the agreed monthly payment, without a delay of more than 60 days in the payment of any monthly payment and without any prepayment of more than 12 months and if during such period no application has been made for repurchase of any part of such savings share account, the bonus shall be payable on the date on which the participation value of such savings share account shall equal or exceed 100 times the agreed monthly payment. The bonus rate on such short-term savings share account shall be one-half of 1 percent per annum and the amount of the bonus shall be determined as follows: Divide the dollar amount of each semiannual dividend declared on such savings share account by a figure equal to twice the annual rate of percent of such semiannual dividend declared. The amount of the bonus is the sum of the quotients obtained.

(b) *Long-term bonus.* If, after the adoption of the bonus plan a member desiring a long-term bonus shall agree to make regular monthly share payments of any specified amount on a savings share account until the participation value thereof shall equal 200

times the agreed monthly payment, and if the agreed monthly payments shall be made each and every month thereafter until the participation value thereof shall equal 200 times the agreed monthly payment, without a delay of more than 60 days in the payment of any monthly payment and without any prepayment of more than 12 months, and if during such period no application has been made for repurchase of any part of such savings share account, the bonus shall be payable on the date on which the participation value of such savings share account shall equal or exceed 200 times the agreed monthly payment. The bonus rate on such long-term savings share account shall be 1 percent per annum and the amount of the bonus shall be determined as follows: Divide the dollar amount of each semiannual dividend declared on such savings share account by a figure equal to the annual rate of percent of such semi-annual dividend declared. The amount of the bonus is the sum of the quotients obtained.

The members, by amendment of the bylaws, may abolish the bonus plan as to savings share accounts opened after the date of such repeal of the bonus plan.

Simultaneously with the declaration of each semi-annual dividend after the adoption of the bonus plan, the board of directors shall transfer out of net earnings to an account designated "reserve for bonus" an amount, which, together with existing credits to such reserve is sufficient to pay the bonus on all savings share accounts then entitled to participation in such reserve in accordance with the provisions of this section. The board of directors may transfer any excess in such reserve to the undivided profits account.

11. *Redemption.* At any time funds are on hand for the purpose, the association shall have the right to redeem by lot, or otherwise as the board of directors may determine, all or any part of any of its share accounts on a dividend date, by giving 30 days' notice by registered mail addressed to the holders at their last address recorded on the books of the association. The association shall not redeem any of its share accounts when there is an impairment of share capital or when it has applications for repurchase which have been on file more than 30 days and not reached for payment. The redemption price of share accounts redeemed shall be the full value of the share account redeemed, as determined by the board of directors, but in no event shall the redemption price be less than the repurchase value. If a share account which is redeemed is entitled to participate in the reserve for bonus, the amount of such accrued participation shall be paid as part of the redemption price. If the aforesaid notice of redemption shall have been duly given, and if on or before the redemption date the funds necessary for such redemption shall have been set aside so as to be and continue to be available therefor, dividends upon the share accounts called for redemption shall cease to accrue from and after the dividend date specified as the redemption date, and all rights with respect to such share accounts shall forthwith, after such redemption date, terminate, except only the right of the holder of record to receive the redemption price without interest.

12. *Repurchase.* The association shall have the right to repurchase its share accounts at any time upon application therefor and to pay to the holders thereof the repurchase value thereof. Holders of share accounts shall have the right to file with the association their written applications to repurchase their share accounts, in part or in full, at any time. Upon the filing of such written applications to repurchase, the association shall number and file the same in the order received and shall either pay the holder the repurchase value of the share account, in part or in full as requested, or, after 30 days from the receipt of such application to re-

purchase, apply at least one-third of the receipts of the association from holders of share accounts and borrowers, to the repurchase of such share accounts in numerical order: *Provided*, That if any holder of a share account applies for the repurchase of more than \$1,000 of his share account or accounts, he shall be paid \$1,000 in order when reached, and his application shall be charged with such amount as paid and shall be renumbered and placed at the end of the list of applications to repurchase, and thereafter, upon again being reached, shall be paid a like amount, but not exceeding the value of his account, and until paid in full shall continue to be so paid, renumbered, and replaced at the end of the list. When an application to repurchase is reached for payment as above provided, a written notice shall be sent to the applicant by registered mail at his last address recorded on the books of the association, and, unless the applicant shall apply in person or in writing for such repurchase payment within 30 days from the date of mailing such notice, no payment on account of such application shall be made and such application shall be cancelled. The board of directors shall have the absolute right to repurchase not exceeding \$100 of any one share account or accounts of any one holder in any one month in any order regardless of whether or not such holder has filed an application for repurchase. Holders of share accounts filing written application for repurchase shall remain holders of share accounts until paid and shall not become creditors. Dividends upon a share account, to the extent of the amount of the application repurchase all or part thereof, shall be discontinued while such share account remains upon the repurchase list. The repurchase value of share accounts of the association shall be the participation value thereof.

13. *Loans and investments.* The association may make loans to holders of share accounts on the sole security of their share accounts. To secure such loans the association shall obtain a lien upon, or a pledge of, the share account. Upon any default on any such loan, the association may, without any notice to or consent of the share-account holder, cancel on its books share accounts pledged and apply such share accounts in payment on account of the loan. No such loan shall exceed 90 percent of the repurchase value of the share account securing such loan. No such loan shall be made when the association has applications for repurchase which have been on file more than 30 days and not reached for payment.

The association may also lend its funds on the security of first liens upon homes, or combination of homes and business property, within 50 miles of its home office; provided, that not more than \$20,000 shall be loaned on the security of a first lien upon any property; except that not exceeding 15 percent of the assets of the association may be loaned on other improved real estate without regard to said \$20,000 limitation, and without regard to said 50-mile limit, but secured by first lien thereon; and, provided further, that the association may lend, without the requirement of amortization of principal, not exceeding 50 percent of the appraised value of the security of a first lien upon improved real estate, but the aggregate amount of such loans and of all other loans made pursuant to this sentence, without regard to the \$20,000 limitation and without regard to the 50-mile limit, shall not exceed 15 percent of the assets of the association, without the prior written approval of the Home Loan Bank Board. The association, if converted from a State-chartered institution, may continue to make loans in the territory in which it made loans while operating under State charter. The association shall not make any loans to an officer, director, or employee, except loans on the sole security of share accounts owned by such officer, director, or employee, and except loans on the security of a first lien upon the home or combination

of home and business property owned and occupied by such borrowing officer, director, or employee. The association may lend an amount not exceeding 75 percent of the value of the security of a home or combination home and business property, and may lend an amount not exceeding 50 percent of the value of the security of other improved real estate, provided that the association may lend a higher percentage of the value of any such security when authorized by the members of the association and by regulations made by the Home Loan Bank Board.

The association may invest without limit in obligations of, or obligations guaranteed as to principal and interest by, the United States, in obligations of Federal home loan banks, and in other securities approved by the Home Loan Bank Board. The association may also invest in stock of a Federal home loan bank.

No loans shall be made upon the security of real estate until at least two qualified persons selected by the board of directors shall have submitted a signed appraisal of the real-estate security for such loan. No loan shall be made when the borrower is required to pay to the association or to another person in connection with the loan any unreasonable or unlawful charge or fee. The association shall ascertain the total amount paid by each borrower to it and to any other person in connection with the loan, and furnish to each borrower upon the closing of the loan a loan settlement statement, indicating in detail the charges or fees such borrower has paid or obligated himself to pay to the association or to any other person in connection with such loan, and a copy of such statement shall be retained in the records of the association.

14. *Loan plan.* Loans on real estate shall be made on one of the following bases:

(a) Repayable in monthly installments, equal or unequal, beginning not later than 30 days after the date of the advance of the loan, sufficient to retire the debt, interest and principal, within 20 years: provided, however, that the loan contract shall not provide for any subsequent monthly installment of an amount larger than any previous monthly installment; and provided further, that in the case of construction loans the first payment shall not be later than 4 months after the date of the first advance.

(b) To the extent permitted by this charter, repayable within 5 years from date with or without any amortization of principal but with interest payable at least semiannually.

The monthly payments required shall be applied first to interest on the unpaid balance of the debt and the remainder to the reduction of the debt until the same is paid in full. The primary obligation shall be secured by a mortgage or other instrument constituting a first lien or the full equivalent thereof upon the real estate securing the loan according to any lawful and well recognized practice which is deemed best suited to the transaction. In keeping with the best loan practices in the territory, the instrument securing a loan on real estate shall provide for full protection to the association and shall be recorded. It shall provide specifically for full protection with respect to insurance, taxes, assessments, other governmental levies, maintenance, and repairs. It may provide for an assignment of rents and for such other protection as may be lawful or appropriate. The association may pay taxes, assessments, insurance premiums, and other similar charges for the protection of its interest in the property on which it has loans. All such payments may, when lawful, be added to the unpaid balance of the loan. The association may require life insurance to be assigned to the association by its borrowers as additional collateral for real-estate loans. The association may advance premiums on any life insurance held as additional collateral for real-estate loans if the association has a first lien on the policy. Such premium advances may,

when lawful, be added to the unpaid balance of the loan. The association may require that the equivalent of one-twelfth of the estimated annual taxes, assessments, insurance premiums, and other charges upon real-estate security, or any of them be paid in advance to the association in addition to interest and principal payments on its loans so as to enable the association to pay such charges as they become due from the funds so received. The association shall keep a record of the status of taxes, assessments, insurance premiums, and other charges on all real estate on which the association has made loans or which is owned by the association. The board of directors shall from time to time determine the rate of interest, premiums, fees, and other charges to be made in connection with loans by the association. In fixing such charges full consideration shall be given to sound and economical home financing in the territory in which the association operates. Borrowers shall have the right to prepay their loans without penalty; except that when the amount prepaid equals or exceeds 20 percent of the original principal amount of the loan, not more than 90 days' interest on the amount prepaid may be charged, provided the loan contract makes provision for such penalty. All loans on the security of real estate shall be made in accordance with this section unless the Home Loan Bank Board approves another loan plan upon application from the association for such approval.

15. *Evidence of corporate existence.* This charter, or a certified copy hereof under the seal of the Home Loan Bank Board, shall be evidence of the corporate existence of the association.

16. *Amendment of charter.* No amendment, addition, alteration, change, or repeal of this charter shall be made unless such proposal is made by the board of directors of the association, and submitted to and approved by the Home Loan Bank Board, and is thereafter submitted to and approved by the members at a legal meeting. Any amendment, addition, alteration, change, or repeal so acted upon and approved shall be effective, if filed with and approved by the Home Loan Bank Board, as of the date of the final approval by the members.

I, _____, Secretary of the Home Loan Bank Board, do hereby certify that the foregoing is a true and correct copy of the charter of the _____ Federal Savings and Loan Association _____ issued by the Home Loan Bank Board on the _____ day of _____, 19____.

This, the _____ day of _____, 19____.

[SEAL] _____

Secretary

Each such charter shall create the legal rights and duties intended by the parties; and after each such charter is issued, the Federal association shall be operated within the limits prescribed by section 5 of the Home Owners' Loan Act of 1933, and shall be subject to the provisions of its charter, its bylaws, and these rules and regulations, and any amendments thereof. Federal associations heretofore chartered (provided no preferred shares are outstanding) may amend their charter as an entirety by a majority vote cast at a regular or special meeting of members adopting a Charter K with the same name and office prescribed by their present charter and upon filing the following petition (hereinafter referred to as a "Petition for Amended Charter K"):

PETITION FOR AMENDED CHARTER K
HOME LOAN BANK BOARD

Washington, D. C.

The undersigned, pursuant to section 202.9 of the Rules and Regulations for Federal

Savings and Loan Associations, respectfully petitions the Board to issue an amended charter in the form of Charter K to the undersigned, fixing the name and home office of the undersigned which its present charter prescribes.

The undersigned, by its secretary, hereby certifies that the members at a regular (special) meeting duly adopted the following resolution:

"Be It Resolved, That the present charter of this association be amended to read in the form of Charter K, prescribing the present name and home office fixed by the present charter of this association."

In witness whereof, the Secretary of the undersigned has hereunto affixed his hand and the seal of the undersigned this ----- day of -----, 192-----.

[CORPORATE SEAL] FEDERAL SAVINGS AND
LOAN ASSOCIATION
By -----

The Board will issue to any such Federal association a Charter K fixing the name and the home office of the association which the present charter prescribes, unless the Board when petitioned approves a change of name or location.

(b) *Bylaws (1936) prescribed.* Each Federal association having a Charter K shall operate under the following bylaws (hereinafter referred to as "Bylaws (1936)") unless and until other bylaws have been adopted by the association and have been approved by the Board:

BYLAWS (1936)

FEDERAL SAVINGS AND LOAN ASSOCIATION

1. *Annual meetings of members.* The annual meeting of the members of the association for the election of directors and for the transaction of any other business of the association shall be held at its home office at 2 o'clock in the afternoon on the third Wednesday in January of each year, if not a legal holiday, or if a legal holiday then on the next succeeding day not a legal holiday. The annual meeting may be held at such other time on such day or at such other place in the same community as the board of directors may determine. At each annual meeting, the officers shall make a full report of the financial condition of the association and of its progress for the preceding year, and shall outline a program for the succeeding year.

2. *Special meetings of members.* Special meetings of the members of the association may be called at any time by the president or the board of directors, and shall be called by the president, a vice president, or the secretary upon the written request of members holding of record in the aggregate at least one-tenth of the share capital of the association. Such written request shall state the purposes of the meeting and shall be delivered at the home office of the association addressed to the president.

3. *Notice of meetings of members.* (a) Notice of each annual meeting shall be either published once a week for the two successive calendar weeks (in each instance on any day of the week) prior to the date on which such annual meeting shall convene, in a newspaper printed in the English language and of general circulation in the city or county in which the home office of the association is located, or mailed postage prepaid at least 15 days and not more than 30 days prior to the date on which such annual meeting shall convene to each of its members of record at his last address appearing on the books of the association. Such notice shall state the name of the association, the place of the annual meeting and the time when it shall convene. A similar notice shall be posted in a conspicuous place in each of the offices of the association during the 14 days immediately preceding the date on which such annual meeting shall convene. If any member, in person or by attorney thereunto authorized, shall waive in writing notice of any annual meeting of members, notice thereof need not be given to such member.

(b) Notice of each special meeting shall be either published once a week for the two consecutive calendar weeks (in each instance on any day of the week) prior to the date on which such special meeting shall convene, in a newspaper printed in the English language and of general circulation in the city or county in which the home office of the association is located, or mailed postage prepaid at least 15 days and not more than 30 days prior to the date on which such special meeting shall convene to each of its members of record at his last address appearing on the books of the association. Such notice shall state the name of the association, the purpose or purposes for which the meeting is called, the place of the special meeting and the time when it shall convene. A similar notice shall be posted in a conspicuous place in each of the offices of the association during the 14 days immediately preceding the date on which such special meeting shall convene. If any member, in person or by attorney thereunto authorized, shall waive in writing notice of any special meeting of members, notice thereof need not be given to such member.

4. *Meetings of the board of directors.* The board of directors shall meet regularly without notice at the home office of the association at least once each month at the hour and date fixed by resolution of the board of directors, provided that the place of meeting may be changed by the directors. Special meetings of the board of directors may be held at any place in the territory in which the association may make loans specified in a notice of such meeting and shall be called by the secretary upon the written request of the president, or of three directors. All special meetings shall be held upon at least 3 days' written notice to each director unless notice be waived in writing before or after such meeting. Such notice shall state the place, time, and purposes of such meeting. A majority of the directors shall constitute a quorum for the transaction of business. The act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the board of directors. All meetings of the members and of the board of directors shall be conducted in accordance with Robert's Rules of Order.

5. *Resignation of directors.* Any director may resign at any time by sending a written notice of such resignation to the office of the association delivered to the secretary. Unless otherwise specified therein, such resignation shall take effect upon receipt thereof by the secretary. More than three consecutive absences from regular meetings of the board of directors, unless excused by resolution of the board of directors, shall automatically constitute a resignation, effective when such resignation is accepted by the board of directors.

6. *Powers of the board.* The board of directors shall have power—
(a) To appoint and remove by resolution the members of an executive committee, the members of which shall be directors, which committee shall have and exercise the powers of the board of directors between the meetings of the board of directors;
(b) To appoint and remove by resolution the members of such other committees as may be deemed necessary and prescribe the duties thereof;
(c) To fix the compensation of directors, officers, and employees; and to remove any officer or employee at any time with or without cause;
(d) To extend leniency and indulgence to borrowing members who are in distress and generally to compromise and settle any debts and claims;

(e) To limit share payments which may be accepted;

(f) To reject any application for share accounts or membership; and

(g) To exercise any and all of the powers of the association not expressly reserved by the charter to the members.

7. *Execution of instruments, generally.* All documents and instruments or writings of any nature shall be signed, executed, verified, acknowledged, and delivered by such officers, agents, or employees of the association or any one of them and in such manner as from time to time may be determined by resolution of the board of directors. All notes, drafts, acceptances, checks, endorsements, and all evidences of indebtedness of the association whatsoever shall be signed by such officer or officers or such agent or agents of the association and in such manner as the board of directors may from time to time determine. Endorsements for deposit to the credit of the association in any of its duly authorized depositories shall be made in such manner as the board of directors may from time to time determine. Proxies to vote with respect to shares or accounts of other associations or stock of other corporations owned by or standing in the name of the association may be executed and delivered from time to time on behalf of the association by the president or a vice president and the secretary or an assistant secretary of the association or by any other person or persons thereunto authorized by the board of directors.

8. *Membership certificates.* One of the officers or an employee designated by the board of directors shall manually sign and deliver a membership certificate to each person upon the initial payment on a share account of the association or upon the making of a real-estate loan by the association.

9. *Seal.* The seal shall be two concentric circles between which shall be the name of the association. The year of incorporation, the word "Incorporated", or an emblem may appear in the center.

10. *Amendment.* These bylaws may be amended any time by a two-thirds affirmative vote of the board of directors, or by a vote of the members of the association. Each and every amendment shall be subject to the approval of the Home Loan Bank Board, and shall be ineffective until such approval shall be given, except that, without the approval of the Home Loan Bank Board, section 1 of the bylaws may be amended so that the time of day for convening the annual meeting may be fixed at any hour not earlier than 10 a. m. or later than 9 p. m., and a new section providing for a bonus may be added as provided in the rules and regulations for Federal savings and loan associations.

We, the undersigned officers, respectively, of the ----- Federal Savings and Loan Association -----, do hereby certify that the foregoing is a true and correct copy of the bylaws of said association.

[SEAL] (President)

(Secretary)

(c) *Availability and delivery of charter and bylaws to members.* Each Federal association shall cause a certified copy of its charter and bylaws to be made available to members at all times in each office of the association, and shall deliver to each member upon admission to membership a true copy of its charter and bylaws as amended. A copy of each subsequent amendment, if directed by the Board, shall be furnished to all members.

(Sec. 5 (a), (b), (c), 48 Stat. 132, sec. 5, 48 Stat. 646, sec. 18, 49 Stat. 297, sec. 3,

60 Stat. 238; 12 U. S. C. 1464 (a), (b), (c), (k), 5 U. S. C. Sup. 1002; Reorganization Plan No. 3 of 1947, 12 F. R. 4981)

The Home Loan Bank Board finds, pursuant to the provisions of the Administrative Procedure Act approved June 11, 1946 (60 Stat. 238), that notice and public procedure on this amendment are unnecessary because the amendment relates to agency management and organization.

By the Home Loan Bank Board.

[SEAL] J. FRANCIS MOORE,
Secretary.

[F. R. Doc. 47-8880; Filed, Sept. 30, 1947;
8:56 a. m.]

Chapter III—Federal Savings and Loan Insurance Corporation

[No. 49]

PART 301—INSURANCE OF ACCOUNTS PUBLICATION OF REGULATIONS

SEPTEMBER 25, 1947.

Notice having been given pursuant to § 301.22 (c) of the rules and regulations for insurance of accounts (24 CFR 301.22 (c)) said section is hereby amended by striking the last sentence of said paragraph (c) thereof as follows, effective October 1, 1947: "A copy of such proposed rule, regulation or amendment shall be filed with the editor of the Federal Home Loan Bank Review for publication in the next available issue of such Review."

(Sec. 402 (a), 48 Stat. 1256, sec. 3, 60 Stat. 238; 12 U. S. C. 1725, 5 U. S. C. Sup. 1002; Reorganization Plan No. 3 of 1947, 12 F. R. 4981)

By the Home Loan Bank Board.

[SEAL] J. FRANCIS MOORE,
Secretary.

[F. R. Doc. 47-8878; Filed, Sept. 30, 1947;
8:47 a. m.]

[No. 51]

PART 301—INSURANCE OF ACCOUNTS PUBLICATION OF REGULATIONS

SEPTEMBER 25, 1947.

Resolved, that § 301.23 of the rules and regulations for insurance of accounts (24 CFR 301.23) is hereby amended, effective October 31, 1947, by striking from the first sentence thereof the following: "in the Federal Home Loan Bank Review, in the issue immediately following the filing for publication thereof"

(Sec. 402 (a), 48 Stat. 1256, sec. 3, 60 Stat. 238; 12 U. S. C. 1725, 5 U. S. C. Sup. 1002; Reorganization Plan No. 3 of 1947, 12 F. R. 498)

It is further resolved, that the foregoing amendment is of a procedural character adopted in accordance with § 301.22 of the rules and regulations for insurance of accounts (24 CFR 301.22).

By the Home Loan Bank Board.

[SEAL] J. FRANCIS MOORE,
Secretary.

[F. R. Doc. 47-8876; Filed, Sept. 30, 1947;
8:47 a. m.]

Chapter V—Federal Housing Administration

PART 500—GENERAL

TITLE I INSURANCE; GENERAL

Subparagraph (2) of paragraph (a) General, of § 500.32 *Title I Insurance* (11 F. R. 177A-889), is amended to read as follows:

(2) In the case of Class 3 loans which are limited to loans made for the purpose of financing new residential constructions under the provisions of Title I of the act, the borrower's application to the lending institution should be submitted on Form FH-51. The property must comply with the requirements set forth in § 502.4 of this chapter. These requirements may be varied under special circumstances upon approval by the Commissioner. Requests for such approval should be submitted to the Federal Housing Administration, Washington, D. C. If the property is to be constructed for sale or rent the insured prior to the disbursement of any portion of the loan shall obtain approval of the transaction from the Commissioner on "Request for Preliminary Approval", Form FH-52. Request for preliminary approval should be made to the FHA Insuring Office having jurisdiction over the area in which the property is located. The request should be accompanied by the lending institution's complete loan file on the borrower, together with duplicate copies of plans and specifications showing clearly the details of construction with respect to those specific structural elements, to which such compliance is required by § 502.4, (a) (14) of this chapter. Class 3 transactions are handled in a manner similar to Class 1 and 2 loans, the approval of the borrower's credit and other details of the transaction being handled by the lending institution.

(Sec. 2, 48 Stat. 1246, as amended by 49 Stat. 293, 49 Stat. 722, 49 Stat. 1187, 49 Stat. 1233, 50 Stat. 70, 52 Stat. 8, 53 Stat. 804, 55 Stat. 364, 56 Stat. 301, 57 Stat. 42, 57 Stat. 571, and Pub. Law 120, 80th Cong.; 12 U. S. C. and Sup. 1703)

[SEAL] R. WINTON ELLIOTT,
Assistant Commissioner.

SEPTEMBER 12, 1947.

[F. R. Doc. 47-8839; Filed, Sept. 30, 1947;
8:50 a. m.]

PART 500—GENERAL

TITLE I INSURANCE; DISBURSEMENTS

Paragraph (b) of § 500.32 *Title I Insurance* (11 F. R. 177A-889), is amended to read as follows:

(b) *Disbursements.* Disbursement of the proceeds of Class 1 and 2 loans may be made by the lending institution either (1) direct to the borrower or (2) to one other than the borrower or to the borrower and another jointly, in which event a "Borrower's Completion Certificate" (FH-2) and a "Dealer's Completion Certificate" (FH-3) properly executed are required. Disbursement of the proceeds of Class 3 loans may be made by the in-

stitution in progress payments as construction progresses or in one lump sum when the structure has been completed. If progress payments are made the amount of labor performed and materials at the site must be at least 110 percent of the total payment plus previous payments, if any. In no event may disbursements exceed 80 percent of the loan until the lender has made a final inspection and has approved the work, except if completion is temporarily delayed due to causes beyond the control of the builder. The entire balance of the loan may be disbursed after retaining 1½ times the amount deemed necessary to complete the work. Two completion certificates are required on each Class 3 loan, one from the borrower and the other from the lending institution. Prior to the final disbursement the borrower must execute Form FH-55 "Borrower's Completion Certificate" and submit such certificate to the lending institution. The lending institution, after making its final inspection, may accept the statement of the borrower contained in Form FH-55 without further investigation and must then certify to the Commissioner on Form FH-57, "Report of Final Disbursement" that to its knowledge and belief the statements made by the borrower on his certificate (FH-55) are correct and that the property is suitable as a residence and does not adversely affect the surrounding properties.

(Sec. 2, 48 Stat. 1246, as amended by 49 Stat. 293, 49 Stat. 722, 49 Stat. 1187, 49 Stat. 1233, 50 Stat. 70, 52 Stat. 8, 53 Stat. 804, 55 Stat. 364, 56 Stat. 301, 57 Stat. 42, 57 Stat. 571, and Pub. Law 120, 80th Cong.; 12 U. S. C. and Sup. 1703)

[SEAL] R. WINTON ELLIOTT,
Assistant Commissioner.

SEPTEMBER 12, 1947.

[F. R. Doc. 47-8838; Filed, Sept. 30, 1947;
8:50 a. m.]

PART 500—GENERAL

TITLE I INSURANCE; CLAIM FOR PAYMENT UNDER INSURANCE CONTRACT

Paragraph (f) of § 500.32 *Title I Insurance* (11 F. R. 177A-889) is amended to read as follows:

(f) *Claim for payment under insurance contract.* Claims for reimbursement for loss on an eligible Class 1 or Class 2 loan may be made by the lending institution after the borrower's default, provided demand has been made for the full unpaid balance of the note. Such claim is submitted to the Federal Housing Administration, Washington, D. C., on Form FHE7, which must be accompanied by (1) the lending institution's complete credit and collection file pertaining to the transaction; and (2) the note and any security held/or judgment taken, duly assigned to the United States of America, as provided by the regulations. In the event of default on a Class 3 loan, the insured institution is required to give notice in writing to the Commissioner at Washington, D. C. within sixty days from the date of default, as defined in § 502.10, paragraph (a) of this chapter and every sixty days thereafter until

such default is cured and notice thereof is given to the Commissioner. Such notices of default should be submitted in triplicate on FHA Form 2068, "Notice of Default Status". Claims for reimbursement on Form FHE7D for loss on Class 3 transactions are made after foreclosure of the mortgage held by the lending institution and conveyance of title to the property to the Commissioner, or, with the Commissioner's approval of the sale of the property by the lending institution, the property may be sold and claim filed for the deficiency, if any. An audit of each claim is made by the Federal Housing Administration for the purpose of determining compliance with the provisions of the National Housing Act and the applicable regulations. Payment of the loss sustained is then made by United States Treasury check. If the claim is disapproved the lending institution is notified of the basis of such disapproval, with return to it of all related papers and documents. The lender may obtain reconsideration of disapproval of a claim by making written request addressed to the Comptroller, Federal Housing Administration, Washington, D. C.

(Sec. 2, 48 Stat. 1246, as amended by 49 Stat. 293, 49 Stat. 722, 49 Stat. 1187, 49 Stat. 1233, 50 Stat. 70, 52 Stat. 8, 53 Stat. 804, 55 Stat. 364, 56 Stat. 301, 57 Stat. 42, 57 Stat. 571 and Pub. Law 120, 80th Cong.; 12 U. S. C. and Sup. 1703)

[SEAL] R. WINTON ELLIOTT,
Assistant Commissioner.

SEPTEMBER 12, 1947.

[F. R. Doc. 47-8840; Filed, Sept. 30, 1947;
8:50 a. m.]

PART 500—GENERAL

TITLE I INSURANCE; CLASS 3 LOANS FOR NEW HOMES

Subpart E *Statements of Policy and Interpretation*, § 500.100 (11 F. R. 177A-895), is amended by the addition of a new paragraph (h) as follows:

§ 500.100 *Title I Insurance*. * * *

(h) *New homes; Class 3 loans under Title I.*

NOTE: The following statements of policy and interpretation are to be read in connection with and are supplemental to the regulations contained in Part 502 of this chapter.

(1) *Credit*. The approval of the borrower's credit is entirely within the discretion of the lending institution.

In investigating the credit of an applicant borrower as set forth in § 502.5 of this chapter, consideration should be given to the applicant's ability to pay, as determined by the assurance of a steady and sufficient income that will allow, after the payment of ordinary living and operating expenses plus other obligations, sufficient funds to make payments on his Title I loan. The applicant must further demonstrate that he has a reputation for meeting promptly his obligations and that he is capable of managing his own personal and business affairs.

The lending institution should also ascertain the amount, terms and conditions of any indebtedness that the borrower may incur in financing the

difference between the cost of the property and the amount of the Class 3 loan plus the 5% investment. Such information will be useful in determining whether or not the borrower is buying the property at a fair price and incurring obligations no greater than his income will permit him to meet.

The borrower must certify on his Credit Application that the property will be free of all liens other than the Class 3 security instrument, except taxes and ground rents not due or payable and special assessments not in arrears. No second mortgage or junior lien financing is permitted. This does not prevent the borrower from obtaining an unsecured loan or a loan secured by property other than the mortgaged property. It is permissible for the borrower to incur an indebtedness independent of the mortgaged property in an amount representing the difference between the price paid for the property and the amount of his Class 3 loan plus his 5% investment. For example, if the completed property has an appraised value of \$3,400.00 (structure \$3,000.00, land \$400.00) and this figure is also the sales price, the borrower must establish a true 5% equity or \$170.00 and may obtain a Class 3 loan not in excess of \$3,000.00, the cost of the structure and appurtenances. This leaves a difference of \$230.00 on the cost of the land which the borrower may finance through means of an obligation independent of the mortgaged property.

A borrower may obtain as many separate loans, on separate pieces of property, as in the opinion of the institution his credit warrants. A separate "Credit Application" on form FH-51 must be obtained for each Title I Class 3 loan. (The Credit Application form used for Class I or Class 2 loans may not be used for Class 3 loans.)

(2) *Eligible improvements*—(i) *Appurtenances*. The word "appurtenances" as used in § 502.4 of this chapter refers to landscaping, fencing, garage, sidewalks and drives, septic tanks, cesspools, wells, lighting, heating and plumbing systems and other similar improvements normally required to make the structure complete. The proceeds of an eligible loan may not be used to pay for any of the cost of purchasing the land or pay for any of the items making up the minimum investment requirement.

(ii) *Property requirements, general*. The property shall comply with the property requirements provided in Regulation IV. It will be noted that these requirements are the minimum to assure sound and habitable construction. The lending institution, if it so desires, may impose further conditions beyond those now established. While the requirements of Regulation IV are mandatory in order that a loan may be eligible, they do not guarantee that the dwelling upon completion will be without defect in every particular. For, regardless of the conditions that may be established, poor materials or poor workmanship can only be detected by rigid inspection. Consequently, lending institutions are encouraged to counsel the borrower and help him wherever possible so as to avoid future dissatisfaction, complaint, and possible default.

The following presents a discussion of that which is expected of the property: The property including the dwelling, accessory buildings, and all other improvements to the lot should be well designed and well planned. To attain this the property should be of a character that will not induce neighborhood blight nor adversely affect neighboring properties; the property as a whole is expected to be such as to provide continuing utility, security, and satisfaction to the occupants; the planning must provide safe, sanitary, and healthful living conditions to the occupants; and the arrangement of the space within the dwelling and accessory buildings and on the plot should be so planned and coordinated as to provide comfortable and convenient living conditions consistent with current standards of the locality for comparable residential properties.

(iii) *Lot area*. It is expected that the lot area, the percentage of open space on the lot, the width of yards, courts if any, and distances between buildings will be sufficient to assure adequate natural light and ventilation to all rooms without impairment of privacy and to provide for convenient access to the dwelling, for circulation around the dwelling, and for outdoor uses essential to the type and class of dwelling under consideration such as laundry drying, gardening, landscaping, and outdoor living.

(iv) *Light and ventilation*. Light and ventilation must be provided in such volume, proportioned to the size and intended use of the rooms to assure satisfactory and healthful living conditions. Sufficient ventilation should be provided to spaces such as attics and basement areas so as to prevent conditions conducive to dampness, resulting in decay and deterioration to the structure.

(v) *Arrangement*. It is expected that the planning arrangement will assure complete living facilities ordinarily considered necessary to a permanent home, arranged and equipped to provide for suitable and desirable living, sleeping, cooking and dining accommodations with necessary storage and adequate sanitary facilities and that rooms will be of sufficient size and so planned as to permit the proper placing of adequate furniture and equipment appropriate to and essential for the use of the occupants.

It is expected that the interior arrangement of rooms and the location of exterior openings will assure reasonable privacy in relation to exterior and interior conditions, particularly with reference to access to bathrooms from bedrooms. The over-all planning should result in desirable living conditions.

(vi) *Ceilings*. Ceiling heights should assure free circulation of a sufficient volume of air, and in rooms with sloping ceilings headroom should be adequate for the placing of and access to appropriate furniture in comfortable arrangement.

(vii) *Stairways, halls and doorways*. Stairways must provide safety of ascent and descent with adequate headroom, and the dimensions and arrangement of stairways, hallways, and doorways should

be adequate for the passage of furniture.

(viii) *Construction.* The frame and enclosure of the dwelling and accessory buildings must be well built and durable, providing a weather-resistant shelter. To attain this, all portions of the structure subjected to exterior exposure should be of such materials and so constructed and protected as to prevent the entrance or penetration of moisture and the weather; adequate precautions are expected to be taken to protect properly materials and construction from damage by ordinary use and from decay, corrosion, termites, and other destructive elements; workmanship is expected to be of a quality equal to good standard practices and the material used of such quality and kind as to assure reasonable durability and economy of maintenance, all commensurate with the type and class of dwelling; all members and parts of the construction must be properly designed to carry all loads imposed without detrimental effect on finish or covering materials; each member should be correctly fitted and connected; the structure should be adequately braced, and precautions should be taken to protect against fire and accidents.

(Sec. 2, 48 Stat. 1246, as amended by 49 Stat. 293, 49 Stat. 722, 49 Stat. 1187, 49 Stat. 1233, 50 Stat. 70, 52 Stat. 8, 53 Stat. 804, 55 Stat. 364, 56 Stat. 301, 57 Stat. 42, 57 Stat. 571 and Pub. Law 120, 80th Cong.; 12 U. S. C. and Sup. 1703)

[SEAL] R. WINTON ELLIOTT,
Assistant Commissioner.

SEPTEMBER 12, 1947.

[F. R. Doc. 47-8841; Filed, Sept. 30, 1947;
8:50 a. m.]

Chapter VIII—Office of Housing Expediter

[Suspension Order S-15, Amdt.]

PART 807—SUSPENSION ORDERS

JOHN MACRINA AND NICHOLAS MACRINA

John Macrina and Nicholas Macrina were suspended on August 1, 1947, by Suspension Order No. S-15 from doing any further construction on the structure at Caroline Street just off Mohawk Street, Herkimer, New York, which proposed structure was to be used for a bowling alley. As said John Macrina and Nicholas Macrina have represented to the Housing Expediter that if authorized to continue construction at said premises, the structure will be used for a warehouse and that the structure will not be used for recreational or amusement purposes, it appears appropriate that such suspension order be amended.

It is hereby ordered, That: § 807.15, Suspension Order No. S-15, issued August 1, 1947, be and hereby is amended to permit the construction of the structure at Caroline Street just off Mohawk Street, Herkimer, New York, *Provided*, That no construction be carried on for the completion of said structure or any portion thereof to be used for recreational or amusement purposes prohibited

by the Construction Limitation Regulation, as amended.

Issued this 26th day of September 1947.

OFFICE OF THE HOUSING
EXPEDITER,
By JAMES V. SARCONI,
Authorizing Officer.

[F. R. Doc. 47-8852; Filed, Sept. 30, 1947;
8:52 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury

PART 131—GENERAL LICENSES UNDER EXECUTIVE ORDER NO. 8389, APRIL 10, 1940, AS AMENDED, AND REGULATIONS ISSUED PURSUANT THERETO

SWITZERLAND; FOREIGN FUNDS CONTROL

SEPTEMBER 30, 1947.

Revocation of General License No. 50 under Executive Order No. 8389, as amended, Executive Order No. 9193, as amended, section 5 (b) of the Trading with the Enemy Act, as amended by the First War Powers Act, 1941, relating to foreign funds control.

Section 131.50 (General License No. 50) is hereby revoked.

(Sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, 54 Stat. 179, sec. 301, 55 Stat. 839; 12 U. S. C. 95a, 50 U. S. C. App. Supp., 5 (b); E. O. 8389, Apr. 10, 1940, as amended by E. O. 8785, June 14, 1941, E. O. 8832, July 26, 1941, E. O. 8963, Dec. 9, 1941, and E. O. 8998, Dec. 26, 1941, E. O. 9193, July 6, 1942, as amended by E. O. 9567, June 8, 1945; 3 CFR, Cum. Supp., 10 F. R. 6917; Regulations, Apr. 10, 1940, as amended June 14, 1941, Feb. 19, 1946, June 28, 1946, and Jan. 1, 1947; 31 CFR, Cum. Supp., 130.1-7, 11 F. R. 1769, 7184, 12 F. R. 6)

[SEAL] A. L. M. WIGGINS,
Acting Secretary of the Treasury.

[F. R. Doc. 47-8910; Filed, Sept. 30, 1947;
9:30 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter XXIV—Department of State, Disposal of Surplus Property

[Dept. Reg. 108.51; FLC Reg. 8, Order 6]

PART 8508—DISPOSAL OF SURPLUS PROPERTY LOCATED IN FOREIGN AREAS

IMPORTATION INTO UNITED STATES OF SURPLUS PROPERTY LOCATED IN FOREIGN AREAS

Foreign Liquidation Commissioner Regulation 8, Order 6, of April 18, 1947, as amended and supplemented (Departmental Regulation 108.44, 108.46, 108.48, 108.49, 12 F. R. 2521, 3186, 4841, 4842) is hereby revised and amended to read as herein set forth.

The President has informed the Secretary of State that certain materials which have been or may be declared to the Foreign Liquidation Commissioner as surplus property located in foreign areas are in critically short supply and

urgently needed for reconversion in the United States, and has requested the Secretary of State to take such action as may be necessary and appropriate to permit until January 1, 1948 the importation of such materials into the United States.

It is hereby ordered, That § 8508.15 of FLC Regulation 8 shall not apply to prevent the importation of surplus property specified in Schedule A attached hereto as the same now stands or may hereafter be amended or supplemented if those items are in transit to a point in the United States on or before January 1, 1948. For the purpose of this order "in transit to a point in the United States" shall mean the property involved has been delivered to or accepted by a carrier which has issued a through bill of lading thereon to a point in the United States.

Items on Schedule A as published January 18, 1947 (12 F. R. 391), which are purchased pursuant to Bid Invitation BE-3 of the Field Commissioner for Canada and North Atlantic Areas of the Foreign Liquidation Commissioner, issued January 20, 1947, and supplemented by Addenda No. 1 and No. 2 of February 5, 1947, and March 6, 1947, respectively, are not subject to the importation prohibition of FLC Regulation 8 if in transit to a point in the United States on or before March 1, 1948.

(58 Stat. 765, 59 Stat. 533, 60 Stat. 168, 754; 50 U. S. C. App. Supp. 1611-46)

This order shall become effective as of October 1, 1947.

Approved: September 26, 1947.

[SEAL] ROBERT A. LOVETT,
Acting Secretary of State.

SCHEDULE A

Steel mill products: carbon steel.
Containers: steel; shipping barrels, drums and pails.
Cylinders: compressed gas.
Telephone and telegraph equipment, including but not limited to, lead covered cable; line, messenger and drop wire; pole line hardware; outside plant communication equipment; central office equipment, including switchboard positions; and miscellaneous telephone apparatus.
Burlap: bags and strips.

[F. R. Doc. 47-8858; Filed, Sept. 30, 1947;
8:54 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

[CGFR 47-45]

PART 4—REQUIREMENTS FOR ENTRANCE INTO COAST GUARD SERVICE

APPOINTMENT OF COAST GUARD CADETS

By virtue of the authority contained in 50 Stat. 549 as amended and 38 Stat. 800 as amended (14 U. S. C. 15, 92) the regulations in §§ 4.1 to 4.9, inclusive, are cancelled effective upon publication of this order in the FEDERAL REGISTER and are superseded by new regulations reading as follows:

SUBPART—APPOINTMENT OF COAST GUARD CADETS

Sec.

- 4.1 Cadets, Coast Guard Academy.
- 4.2 General requirements for eligibility.
- 4.3 Application of candidate.
- 4.4 Certificate of candidate.
- 4.5 Time, place, and expense of examination.
- 4.6 Scholastic examination.
- 4.7 Review and rating of examination papers.
- 4.8 Appointments.
- 4.9 Deposit by cadet on appointment.
- 4.9a Physical aptitude test.

AUTHORITY: §§ 4.1 to 4.9a, inclusive, issued under sec. 2, 34 Stat. 452, as amended, sec. 1, 38 Stat. 800, sec. 5, 50 Stat. 549; 14 U. S. C. 15, 92.

SUBPART—APPOINTMENT OF COAST GUARD CADETS

§ 4.1 Cadets, Coast Guard Academy. Cadets are appointed in the Coast Guard for training to fit them to become commissioned officers in the Service. The Coast Guard Academy, located at New London, Connecticut, is maintained by the Government for the practical and theoretical training of young men to enable them to enter upon the duties of Ensign in the Coast Guard. Appointments are made through competitive examinations.

§ 4.2 General requirements for eligibility—(a) Age. A candidate must be a citizen of the United States and must be not less than 17 years of age nor more than 22 years of age on July 1 of the calendar year in which he is appointed a cadet. If the candidate has not reached his seventeenth birthday, or if he will have reached his twenty-second birthday, on or before July 1 of the calendar year in which he seeks to be appointed a cadet, he will be ineligible for appointment. If under 21 years of age, he will be required to furnish the written consent of parent or guardian before admission to the Coast Guard Academy.

(b) Moral character. He must satisfy the Commandant of the Coast Guard as to his good moral character and standing in the community.

(c) Education. He must satisfy the Commandant of the Coast Guard that he has had sufficient credits in prescribed subjects to justify his being designated for examination.

(d) Unmarried. He must be unmarried. Any cadet who shall marry, or who shall be found to be married before his final graduation, shall be required to resign. Refusal to resign will result in dismissal.

(e) Health and stature. He must be physically sound and not less than 5 feet 6 inches in height stripped; or more than 6 feet 4 inches in height, stripped.

(f) Dismissal from Military Academy, etc. No person who has been dismissed or compelled to resign from the United States Military Academy, the United States Naval Academy, or the United States Coast Guard Academy for improper conduct is eligible for appointment as a cadet in the Coast Guard. No person whose discharge from any branch of the military service was under other than honorable conditions is eligible for appointment as a cadet.

(g) Obligation to serve 3 years as an officer. No person shall become a Cadet in the Coast Guard who does not obligate

himself, in such manner as the Secretary of the Treasury may prescribe, to serve 3 years as an officer in the Service after graduation, if his services be so long required.

§ 4.3 Application of candidate—(a) General. A young man who is able to meet the requirements for eligibility as set forth herein and who is interested in becoming a cadet in the Coast Guard, should carefully and completely execute the application blank, Coast Guard Form 9530, in accordance with instructions and return together with three letters of recommendation and an official birth certificate to the Commandant, United States Coast Guard, Washington, D. C.

(b) Application. The application with all supporting papers should be returned promptly in order that all papers may be fully considered and the candidate given an opportunity to correct any errors, or to clear up any misunderstanding as to his eligibility, before the deadline date. Applications and supporting papers must be postmarked no later than January 15. Applications postmarked after the above date will not be considered.

(c) Preliminary physical examination. Before filing an application or preparing for an examination, a candidate must be examined thoroughly by a competent physician to determine whether or not he can meet the physical requirements set forth in Regulations Governing Appointments to Cadetship in the United States Coast Guard. The results of this examination are tabulated on Coast Guard Form 9530A.

(d) Transcript of school record. A candidate who is in attendance at a school at the time his application is filed should have the school forward to Coast Guard Headquarters a completed transcript of his work upon completion of the school year.

(e) Educational questionnaire. The educational questionnaire, Coast Guard Form 9530B, is not an application nor does it take the place of any information required by the Coast Guard in connection with applications. It is for the information of the Academy, and is to be mailed directly to the United States Coast Guard Academy, New London, Connecticut.

§ 4.4 Certificate of candidate. A candidate must submit one or more of the following:

(a) A properly attested certificate (Form 9539) that he has attended, or is attending, an accredited university, college, or technical school, *Provided*, That he has in his school work shown proficiency in subjects amounting to not less than 7 units of the required group and 8 units of the optional group shown in paragraph (f) of this section, or that he will, upon completion of the current year's work have shown proficiency in subjects amounting to not less than 7 units of the required group and 8 units of the optional group. A candidate submitting a certificate showing prospective completion of the necessary subjects must as a condition of admission continue his course of study in such subjects to completion.

(b) A properly attested certificate (Form 9539A) that he has graduated from an accredited preparatory school

or public high school, provided that he has in his school work shown proficiency in subjects amounting to not less than 7 units of the required group and 8 units of the optional group shown in paragraph (f) of this section.

(c) A properly attested certificate (Form 9539A) that he is in actual attendance in his senior year at an accredited preparatory school, or public high school and has satisfactorily completed three and one-half (3½) years' work at such a school, *Provided*, That the course which he is pursuing will, when completed, show proficiency in subjects amounting to not less than 7 units of the required group and 8 units of the optional group shown in paragraph (f) of this section. A candidate submitting a certificate showing actual attendance at and prospective graduation from a preparatory school or high school must as a condition of admission continue his course of study to completion.

(d) A properly attested certificate from the college entrance examination board or a State board of regents, that the candidate has shown proficiency in the examinations set by the board in subjects amounting to not less than 7 units of the required group and 8 units of the optional group shown in paragraph (f) of this section.

(e) Correspondence schools do not meet the requirements for "accredited schools," and this class of schools is not recognized. Certificates issued by correspondence schools will not be accepted.

(f) Lists of subjects which must be presented for credits are given below:

1. Required

Mathematics A1.....	1
Mathematics A2.....	1
Mathematics C.....	1
English 1, 2, and 3.....	3
Physics.....	1
Total.....	7

2. Optional

Further evidence of adequate preparation, amounting to 8 units of optional subjects is required and may be offered from the following groups:

Foreign language.
Social science (history, civics, etc.).
Biological science (biology, zoology, etc.).
Physical science (chemistry, general science, etc.).
Fourth-year English.
Mathematics.
Mechanic arts.
Mechanical drawing.
Fine Arts, drama, and music.
Commercial studies.

While not required, it is recommended that a candidate include solid geometry in his preparation.

(g) Candidates whose high schools give only 1½ years of Algebra may, at the discretion of the Commandant, be given credit for 1 unit of algebra A2 on presentation of proof that they have covered the subject matter listed in paragraph 14, "A2, quadratics and beyond," in the publication, "Regulations Governing Appointments to Cadetship in the United States Coast Guard."

(h) In choice of electives, the following limitations are imposed:

Not less than 2 units of any foreign language will be accepted. The following languages may be offered: French,

German, Spanish, Italian, Latin, and Greek. A total of not more than 2 units will be accepted from any or all of the following groups: mechanic arts, mechanical drawing, commercial studies, fine arts, drama and music.

(i) To satisfy the requirements of § 4.2 (c) a candidate may submit both high school and college credits. Because of the great variation in academic standards and credit requirements among schools, the Commandant reserves the right to evaluate each academic record submitted on its individual merits. In general, college credits from an accredited institution will be given greater weight than high school credit for the same amount of work, but in no case will one semester of college work be considered equivalent to more than one unit of high school work.

§ 4.5 *Time, place, and expense of examination.* A candidate who has been accepted as such will be designated to report for examination and will be advised of the time and place he should so report. A list of cities where the examination will be held will be found in the Regulations Governing Appointments to Cadetship in the United States Coast Guard. Examinations will be held annually on the third Monday and Tuesday in February at places where examiners and medical boards may be available. If either the third Monday or Tuesday falls on Washington's birthday, the examination will be held on the two following days.

§ 4.6 *Scholastic examination—(a) Purpose.* The annual competitive examination is designed to select, on a fair competitive basis, those candidates who are best qualified and most likely to succeed as cadets and officers in the United States Coast Guard.

(b) *Scope and form.* Successful completion of the Academy course and success as an officer depends (1) on an adequate educational background, (2) on the possession of aptitudes relative to both technical and cultural studies, (3) on a sincere interest in the Coast Guard as a career, and (4) on relevant personality and physical characteristics. In addition to the essential virtues of honesty, dependability, and perseverance, the latter qualification includes physical stamina, coordination, physical and mental courage, self-confidence, emotional stability, alertness, leadership, and the ability to live and work harmoniously in close contact with others. The subject matter of the examination will be material within the scope of most high school curricula, i. e., knowledge ordinarily required for admission to college. In the construction of the examination, allowance will be made for the fact that high school curricula are not completely uniform throughout the country. The tests are designed to be as fair as possible to students for all varieties of secondary schools, but no candidate can be expected to have had detailed instruction in all the topics covered in the various tests. Any candidate who has taken the required courses listed in paragraph 8 of the "Regulations Governing Appointments to Cadetship in the United States Coast Guard" can

feel that he is qualified to take the examination as far as formal training is concerned. It must be stressed that this examination is competitive, not merely qualifying. Therefore, the examination will be difficult enough to discriminate between candidates of nearly equal educational achievement. The complete examination will measure as fairly and accurately as possible the extent to which each candidate meets the four general qualifications listed above. The tests will be objective in form except that candidates may be required to write one or more English essays on specified subjects.

(c) *Achievement tests.* Each candidate will be tested for knowledge in all of the following subjects:

(1) English (Grammar, Composition, Literature, and Reading Comprehension).

(2) Social studies (American History, American Government or Political Science, Economics, and Current Events).

(3) Mathematics (Algebra, Plane Geometry).

(4) Science. (Physics).

(d) *Aptitude and ability tests.* The examination will include a battery of short tests in some or all of the following:

(1) Quantitative; mathematical ability.

(2) Verbal or linguistic ability.

(3) Ability to visualize spatial relations.

(4) Mechanical comprehension and ability to deal with mechanical problems.

(5) Aptitudes involved in scientific comprehension, study, and research.

Because these tests stress ability factors rather than knowledge or achievement, they are comparatively uninfluenced by training and experience. It is not possible to prepare for them, and no specific information on their content will be furnished.

(e) *General adaptability.* A specially designated board of Coast Guard officers will be charged with the duty of assigning a mark in general adaptability to each candidate who has satisfied minimum requirements in the achievement and aptitude tests. The term "general adaptability" includes all the factors known to influence success as a cadet and officer. The marks will be based on the relative merit of candidates as shown by tests, questionnaires, and interview reports. While the term "general adaptability" is very broad, the board's decision will be based on factual objective information such as the following:

(1) The candidate's attitude toward assigned tasks and his willingness to work as shown by the consistency and pattern of his previous school record.

(2) The candidate's previous extracurricular and athletic interests and experience, with particular attention to evidence of leadership and team work.

(3) The candidate's personal qualities as shown by his letters of recommendation, the interviewer's report, his high school principal's comment, etc.

(4) The candidate's physical build, appearance, and bearing, as shown by the physical examination, photographs, and the interviewer's report.

(5) The candidate's score on one or more test of emotional stability, social adjustment, vocational interest, study habits, background and personality characteristics as may be administered for the purpose.

The board will be charged with the duty of obtaining the best possible cadets and officers for the Coast Guard. It is, therefore, to a candidate's interest to cooperate fully in supplying the board with all relevant information on the above factors. The board's judgment will be final and subject to review only by order of the Commandant.

§ 4.7 *Review and rating of examination papers—(a) Minimum requirements.* To reduce labor and to eliminate candidates who are markedly deficient in one or more parts of the examination, the board will not consider candidates who fail to meet minimum requirements in one or more of the tests listed in § 4.6 (c), or in the battery of tests in § 4.6 (d). All raw scores will be converted to standard scores by the method commonly employed in modern testing techniques. The board will then set minimum requirements in terms of standard scores, and candidates who have standard scores below these levels will be eliminated from further consideration. It is expected that fifty or sixty percent of all candidates will be eliminated in this manner. The remaining forty to fifty percent will be marked in general adaptability.

(b) *Computation of final mark.* The final mark of each candidate will be computed by averaging the following six sub-scores in accordance with the indicated weights:

	Percent
English	20
Social studies	10
Mathematics	20
Science	10
Aptitudes and abilities	10
General adaptability	30
	100

Candidates will be offered appointments in the order of their final marks until the vacancies for the year have been filled. A candidate who fails to receive an appointment may compete again in subsequent years without prejudice, provided he still meets the age and physical qualifications.

§ 4.8 *Appointments.* (a) The number of appointments to be made each year from candidates who have successfully passed the examinations is discretionary, and will depend upon the needs of the Service at the time.

(b) Candidates who are considered eligible for appointment and who have passed the required physical examination will receive appointments as cadets in the United States Coast Guard and will be sent instructions to report to the Coast Guard Academy on a specified date (generally during the first week of July).

(c) Having been appointed and having taken the oath of office a cadet will be reimbursed for the actual mileage from his home to the Academy at the rate of 5 cents per mile.

§ 4.9 *Deposit by cadet on appointment.* Upon appointment each cadet

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shall deposit with the disbursing officer of the Academy the sum of \$200, to be applied toward defraying the cost of his first outfit of uniforms and equipment and of his textbooks and for other necessary expenses: *Provided, however*, That the Superintendent of the Academy, in exceptional circumstances, is authorized to waive this requirement in part; *And provided further*, That a cadet may use so much of this \$200 as may be necessary to defray his traveling expenses to the Academy, the amount thus used to be deposited with the disbursing officer of the Academy when the cadet shall have been paid his mileage.

§ 4.9a *Physical aptitude test.* In addition to the standard physical requirements, candidates are notified that if appointed cadets in the United States Coast Guard they must, during the preliminary term at the Academy qualify in physical aptitude as determined by a one hour examination. This examination measures neuromuscular coordination, muscular power, muscular endurance, cardiovascular endurance and flexibility. The examination will be comprised of a series of tests involving such activities as running, jumping, throwing, climbing, dodging, pushing, and pulling. The examination will consist of a number of tests selected from and similar to those listed below. A candidate may consider himself qualified to meet the physical aptitude standards if he can achieve performance equivalent to those indicated on the following physical tests. All candidates are advised to condition themselves by participation in a wide range of physical activities to assure themselves that they can meet the listed requirements.

- (a) Vertical jump..... 17 inches
The difference between the height an individual can reach and the height he can jump and reach.
- (b) Standing broad jump for distance
6 feet 9 inches
- (c) 3 Broad jumps for distance..... 20½ feet
Standing start with 3 continuous broad jumps.
- (d) Pullups..... 3 times
Chinning oneself on a horizontal bar, grasping bar with back of hand toward face.
- (e) Dips..... 3 times
Raising and lowering oneself on parallel bars by means of the arms. The body is lowered until upper arm passes the horizontal.
- (f) Pushups..... 16 times
Standard pushups starting from the leaning rest position.
- (g) Dodge run..... 27 seconds
A run through a maze placed on a gymnasium floor. This test is described in the book entitled "Achievement Scales in Physical Education Activities for College Men" by F. W. Cozens, Lea & Febinger Publishing Co.
- (h) 300 yard run (Indoor track—11 laps to the mile)..... 46.7 seconds
- (i) 300 yard run..... 65 seconds
This test is a shuttle run on a gymnasium floor between 2 turning blocks placed 25 yards apart.
- (j) 100 yard run..... 18.9 seconds
This test is a shuttle run on a gymnasium floor between 2 turning blocks placed 25 yards apart.
- (k) 50 yard run..... 8.7 seconds
This test is a shuttle run as described under the above 100 yard run.

- (l) Bar Vault for Height..... 4 feet 6 inches
From a standing position vault over a horizontal bar by touching it with only the hands using either flank or front vault.
- (m) Burpee Test for 20 seconds. 10½ times
Continuous movements from the standing position to the squat, to the leaning, rest, to the squat and back to the standing position.
- (n) Squat Jumps (total number possible)..... 28 times
From the squatting position on the right heel with fingers laced on top of head palms downward, and with left foot slightly advanced, spring upward until both knees are straight and both feet clear the floor. While the feet are off the floor advance the right foot and drop a squat on the left heel. Spring up again and repeat as many times as possible.
- (o) Sit-ups..... 30 times
The total number of sit-up movements that can be performed with a partner holding the feet.
- (p) Sit-ups for speed..... 20 times
The number of sit-up movements that can be performed in 30 seconds while lying on a gymnasium mat with toes hooked under a bar.
- (q) Softball throw for distance using a regulation softball (12 inch circumference)..... 140 feet
- (r) Basketball throw for distance using a regulation basketball..... 65 feet
- (s) Medicine ball put..... 33 feet
A 6 lb. medicine ball is put using the same movement as required for a shot put.
- (t) Hop, Step and Jump..... 20 feet
From a standing position take a hop, a step, and a jump to gain as great a distance as possible.
- (u) 100 yard pick-a-back carry..... 27.0 seconds
Carrying a partner astride his back one runs 100 yards by shuttling back and forth around stakes placed 25 yards apart. The partner must be within 10 pounds of one's own weight.
- (v) Rope Climb (7 seconds)..... 10½ feet
Climb a regulation gymnasium rope as high as possible in 7 seconds, using hands and feet or hands alone, starting from a standing position.

Dated: September 19, 1947.

[SEAL] E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 47-8855; Filed, Sept. 30, 1947;
8:53 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 29—MAIL SERVICE FOR MEMBERS OF ARMED FORCES OVERSEAS

SPECIAL PROVISIONS APPLICABLE FOR MEMBERS OF ARMED FORCES OVERSEAS

The following regulations are added to Title 39, Code of Federal Regulations as Part 29:

- Sec.
- 29.1 Definition.
- 29.2 General provisions.
- 29.3 Greeting cards for soldiers.
- 29.4 Addresses.
- 29.5 Postage.
- 29.6 Permissible additions.
- 29.7 Preparation of parcels.
- 29.8 Size and weight of packages.
- 29.9 Perishable matter.
- 29.10 Registry and insurance services.
- 29.11 Transmission of money; use of money orders.
- 29.12 Prohibited articles.

AUTHORITY: §§ 29.1 to 29.12, inclusive, issued under R. S. 161, 396, secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 369.

§ 29.1 *Definition.* Unless otherwise specified, the term "armed forces overseas" as used in this part includes the personnel of our armed forces and authorized U. S. civilians employed overseas, who receive their mail through an A. P. O. or Fleet Post Office in care of the postmaster at New York, N. Y., or San Francisco, Calif., or an A. P. O. in care of the postmaster at Miami, Fla., New Orleans, La., or Seattle, Wash.

§ 29.2 *General provisions.* Except as otherwise provided in this part, the regulations in this chapter applicable to the domestic mails are also applicable to mail service for members of the armed forces overseas. Additional regulations applicable to mail service for members of the armed forces overseas may be found under the name of the country in which they are stationed in Part 21, Subpart B of this chapter.

§ 29.3 *Greeting cards for soldiers.* The War Department advises that greeting cards for soldiers overseas must be sent in sealed envelopes prepaid at the first-class rate.

§ 29.4 *Addresses.* (a) Addresses must be legible and in typewriting or ink. It is preferable that the outside addresses on packages be handprinted directly on the wrappers of the boxes rather than on labels pasted to the wrappers, since experience has shown that the labels frequently fall off when subjected to moisture. Sales slips of retail stores should not be used as address labels. It is highly desirable that slips of paper containing the names and addresses of the sender and addressee and a list of the contents be inclosed in the parcels so that proper disposition of the parcels can be effected in the event the addresses on the outside become defaced in transportation, or the boxes become broken open and the contents scattered.

(b) Letters or parcels addressed to overseas Army personnel should show, in addition to the name and address of the sender, the name, including the full first name, rank, Army serial number, branch of service, organization, A. P. O. number of the addressee, and the post office through which the parcels are to be routed, as, for instance:

From: John R. Roe,
205 West State St.,
Boston 8, Mass.

To: Private William D. Roe (Army Serial No.),
Company F, 167th Infantry,
APO 810, c/o Postmaster,
New York, N. Y.

(c) Letters or parcels for naval personnel, including the Marine Corps, should show, in addition to the name and address of the sender, the full name, rank, or rating of the addressee, and the naval unit to which he is assigned with the Navy number assigned thereto, or name of the ship and fleet post office

through which the parcels are to be routed, as for instances:

From: John Roger Smith,
205 West State St.,
Boston 8, Mass.

To: John Morris Jones, Seaman First
Class, U. S. Navy,
Naval Air Station,
Navy 199 (One Nine Nine),
c/o Fleet Post Office,
San Francisco, Calif.

From: James Oscar Smith,
1100 Pine St.,
San Pedro, Calif.

To: Lieutenant Roger Walter Doe,
U. S. Navy
U. S. S. *Minnesota*,
c/o Fleet Post Office,
New York, N. Y.

From: John R. Doe,
315 University Ave.,
Saint Louis 9, Mo.

To: Corporal John Henry Smith,
U. S. M. C.,
Co. "A," Seventh Marines,
c/o Fleet Post Office,
San Francisco, Calif.

§ 29.5 Postage. Postage must be fully prepaid, the rate on parcels of fourth-class matter (that is, parcels exceeding 8 ounces) being the zone rate applicable from the post office where mailed to the post office in care of which the parcels are addressed. The third-class rate of 1½ cents for each 2 ounces applies to package not exceeding 8 ounces, except in the case of books, on which the rate is 1 cent for each 2 ounces. The third-class rate of 1½ cents for each 2 ounces or fraction thereof is also applicable to unsealed greeting cards, addressed to other than Army personnel, provided they bear no unpermissible written additions. It is suggested, however, that they be mailed as first-class matter since in that event they will be returned, if undeliverable, provided they bear a return card. Parcels containing only books conforming to the requirements prescribed therefor are acceptable at the special rate of 3 cents a pound, plus 1 cent up to and including 16 pounds; 17 to 27 pounds, 3 cents a pound plus 2 cents; 28 to 38 pounds, 3 cents a pound plus 3 cents; 39 to 49 pounds, 3 cents a pound plus 4 cents; 50 to 61 pounds, 3 cents a pound plus 5 cents; 62 to 70 pounds, 3 cents a pound plus 6 cents.

§ 29.6 Permissible additions. In addition to the name and address of the sender, which is required, inscriptions such as "Merry Christmas," "Please do not open until Christmas," "Happy New Year," "With best wishes," and the like, may be placed on the covering of the parcel in such manner as not to interfere with the address, or on a card inclosed

therewith. Books may bear simple dedicatory inscriptions not of a nature of personal correspondence. Stickers or labels resembling postage stamps are not permissible on the outside of parcels.

§ 29.7 Preparation of parcels. Boxes for overseas transmission should be stronger than containers used for parcels which do not leave our shores. Because of the great distance these parcels must be transported and the handling and storage they must undergo, it is absolutely necessary that all articles for overseas be packed in boxes of metal, wood, solid fiberboard, or strong double-faced corrugated fiberboard, testing at least 200 pounds.

Each box should be securely tied with strong cord, preferably by four separate pieces, two lengthwise and two crosswise, knotted at crossings. Sealing the flaps with gummed tape where they meet strengthens the box, but the use of such tape alone is not satisfactory, since the tape loosens if the boxes become wet or exposed to moist atmosphere.

Boxes should contain sufficient cushioning material so that the contents will be tightly packed to prevent any rattling or loosening of the articles within the parcels. Unless completely packed and tightly filled, boxes are likely to be crushed.

It is also desirable that all fiberboard boxes be securely wrapped in heavy paper, if available, which materially strengthens the boxes. The boxes should be tied as above suggested, before and after applying the heavy paper wrapper. Sealed boxes should bear the printed inscription authorizing opening for postal inspection.

When combination packages are made up, including miscellaneous toilet articles, hard candies, soaps, etc., the contents should be tightly packed, in order that the several articles may not be loosened in transit, damaging the contents or the covering of the parcels. Particular attention should be paid to parcels mailed by department stores and others wrapped in so-called "Gift" style. Such parcels should be inclosed in substantial containers, and should not be accepted when sales slips are used as address labels. Hard candies, nuts, caramels (including those covered with chocolate), cookies, fruit cake, and chocolate bars individually wrapped in waxed paper, should be inclosed in inner boxes of wood, metal, or cardboard. Soft candies, whether home-made or commercial, do not carry well. Sealed packages of candy, toilet articles, etc., in simplest mercantile form may be placed in parcels without affecting the parcel-post classification of such packages. Sharp-pointed or sharp-edged instruments, such as razors, knives, etc., must have their points or edges protected so they cannot cut through their coverings and damage other mail or injure postal employees.

Postmasters will refuse to accept and dispatch parcels which are not so packed and wrapped as to withstand the handling and transportation to which they must necessarily be subjected.

§ 29.8 Size and weight of packages. Parcels for armed forces overseas shall not exceed 70 pounds in weight or 100 inches in length and girth combined.

§ 29.9 Perishable matter. Perishable matter will not be accepted. The public is urged not to send fragile articles.

§ 29.10 Registry and insurance services. Valuable articles should be registered or insured. Matter, except that specifically prohibited elsewhere in this part, addressed to members of our armed forces serving outside the continental United States, may be accepted for registration or insurance. Parcels for registration or insurance must be properly packed and wrapped.

§ 29.11 Transmission of money; use of money orders. Domestic money orders can be cashed at A. P. O.'s wherever the armed forces are located. It is therefore recommended that postal money orders be used to transmit gifts of money to members of the armed forces outside the continental United States. As postal notes are payable only in the continental United States, they should not be sent overseas.

The exportation of currency to overseas A. P. O.'s or between A. P. O.'s where the dollar is not the accepted medium of exchange has been prohibited, whether inclosed in letters or in parcels and whether sent as ordinary or registered mail. Postmasters have therefore been instructed that currency should not be accepted for mailing at a domestic post office when addressed to overseas A. P. O.'s or when mailed at and addressed to overseas A. P. O.'s, except those A. P. O.'s which are branches of the post offices at New Orleans, Louisiana, and Seattle, Washington.

§ 29.12 Prohibited articles. Intoxicants, inflammable materials (including matches of all kinds and lighter fluids), and poisons, or compositions which may kill or injure another, or damage the mails, are unmailable.

Cigarettes and other tobacco products are prohibited transmission for delivery through A. P. O.'s in Germany, France and Austria, and also Navy Numbers 913 and 963 in Germany. The transmission of parcels addressed to any overseas A. P. O.'s containing penicillin is prohibited.

[SEAL]

ROBERT E. HANNEGAN,
Postmaster General.

[F. R. Doc. 47-8845; Filed, Sept. 30, 1947;
8:51 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

PART 1—MIGRATORY BIRDS AND GAME MAMMALS

OPEN SEASONS ON WATERFOWL, COOT, RAILS,
AND GALLINULES IN WISCONSIN AND ON
WATERFOWL AND COOT IN OKLAHOMA

CROSS REFERENCE: For an amendment
of Proclamation 2739, which revised § 1.4,
see Proclamation 2747 under Title 3,
supra.

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

17 CFR, Ch. IX]

HANDLING OF MILK IN TOPEKA, KANS., MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OP- PORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and orders (7 CFR, Supps., 900.1 et seq.; 11 F. R. 7737; 12 F. R. 1159, 4904), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and to a proposed order regulating the handling of milk in the Topeka, Kansas, marketing area, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.). Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed marketing agreement and the proposed order were formulated was conducted at Topeka, Kansas, on May 12-16, 1947, after the issuance of notice on April 23, 1947 (12 F. R. 2654).

The material issues on the record were (1) whether the handling of milk in the Topeka, Kansas, marketing area is in the current of interstate commerce or burdens, obstructs or affects interstate commerce, (2) whether an order should be issued to regulate the handling of milk in the Topeka, Kansas, marketing area, and (3) if an order is issued, what its provisions should be. With respect to the last point, several questions were developed. These were concerned with (a) the extent of the marketing area, (b) the definitions of "handler," "producer," and "approved plant," (c) the classification of milk and milk products, (d) transfers of milk between handlers and between handlers and nonhandlers, (e) the level of class prices, (f) seasonal pricing to producers, (g) the amount of the administrative assessment, (h) the amount of the deduction for marketing services, (i) payments to producers, and (j) the administrative provisions common to all orders.

Findings and conclusions. Upon the basis of the evidence adduced at such hearing, it is hereby found and concluded

that: (1) The handling of milk in the Topeka, Kansas, marketing area is in the current of interstate commerce and burdens, obstructs and affects interstate commerce in the handling of milk and its products.

It is shown by the evidence that any milk received from producers in excess of the market's requirements for Class I and Class II milk is moved to the manufacturing side of handlers' plants or to nearby manufacturing plants. There this milk is intermingled with milk which is received expressly for manufacturing and all or a portion of it is used in the production of butter, cheese, and other dairy products. The evidence shows that a substantial portion of these products are sold outside the State of Kansas. One handler testified that approximately one-half of the butter he produced was sold on the New York market and that a substantial amount of his cheese was sold in Kansas City, Missouri. Another handler testified that butter manufactured by it was sold throughout the entire country and that quantities of other manufactured products were sold outside the State of Kansas. This same handler testified that he received a sizeable volume of butterfat from outside the State of Kansas for manufacture into butter.

While the amount of producer milk available for use in dairy products during the war years was negligible, the record shows that there has been over the last year a decided increase in the amount of milk on the Topeka market. During the month of April 1947, producers supplied the market with more than 125 percent of its requirements for Class I and Class II milk. Therefore, more than 20 percent of the producers' receipts were available for use in manufactured dairy products. During May and June the percentage would be somewhat higher since the record shows that they are the months of peak production.

The largest handler in the market testified that all of his cottage cheese and buttermilk are made from Grade A milk received from producers. He also testified that he operated routes from which cottage cheese and buttermilk were regularly disposed of in the State of Missouri.

The record also shows that within the proposed marketing area are located an Army Air Base and the Winter General Hospital. The latter was operated by the War Department during the war years but is now operated by the Veterans' Administration. Both of these government institutions are being served entirely by Topeka handlers. One handler testified that at the time he served the hospital it purchased between 4000 and 5000 pints of milk and approximately 100 quarts of cream per day.

The evidence also shows that whenever producer receipts have been insufficient to fulfill handlers' requirements for Class I and Class II milk, handlers have augmented this supply with milk from manufacturing plants, either op-

erated by themselves or by others. The record clearly shows that these plants are engaged in the manufacture of dairy products for sale in interstate commerce.

It was also testified that these manufacturing plants draw their supplies from the same territory that furnishes Topeka with its fluid supply. In the past year there has been an increase of approximately 100 producers on the Topeka market. Most of these producers shifted to the Topeka market from the manufacturing plants. Thus it is clear that Topeka handlers compete for producers with these manufacturing plants which are engaged in the production of dairy products for sale in interstate commerce.

It is also clear from the evidence that the Topeka market and the Greater Kansas City market (an interstate market regulated by Order No. 13 issued pursuant to the act) compete for supplies and that the Topeka market has a direct effect on the prices received by at least some of the producers supplying the Greater Kansas City market. The evidence shows a substantial intermingling of producers in the area lying between the two markets, and many of the producers so located are in a position to ship their milk to Topeka or to Kansas City. There are two country receiving stations operated by Kansas City handlers located within the Topeka supply area.

The record indicates that there has been some shifting of producers between the two markets, but that the shift has been in both directions. Moreover, the secretary of the cooperative association which represents the majority of the producers in the Greater Kansas City market testified that many of the members of his association might have shifted from Kansas City to Topeka had the association not made an effort to keep its producers in the Kansas City market by interviewing those who were considering making the shift. This action was taken at the request of Kansas City handlers who feared the loss of the producers in question to the Topeka market.

The record also shows that producers supplying the two Kansas City receiving stations located within the Topeka milkshed have been paid premiums regularly for the past few years. It was testified that these premiums were paid solely to keep these producers from shifting to the Topeka market. This is substantiated by the fact that no premiums have been paid at any of the other Kansas City receiving stations nor at any of the city plants within the Greater Kansas City marketing area.

From the foregoing it is evident that a portion of the milk of Topeka producers crosses state lines in the form of buttermilk, cottage cheese and other dairy products, and that the handling of milk in the Topeka market directly burdens, obstructs and affects interstate commerce in milk and its products.

(2) There is need for a marketing agreement and order program to regulate the handling of milk in the Topeka, Kansas, marketing area. Since August

16, 1936, there has been in effect in Topeka a marketing agreement issued by the Secretary under the Agricultural Adjustment Act. Many of the provisions of this agreement are outmoded and the prices provided in it are inadequate in view of current values of milk and dairy products. For some years the agreement has been augmented by private arrangements between the handlers and producers but the signers of the agreement have continued to operate within its framework. While this has served to stabilize the market, producers fear that it could be upset at any time by the refusal of handlers to continue to cooperate.

There are three handlers in the market who started in business after 1936 and who have refused to sign the agreement or to subscribe to supplemental arrangements with producers. These handlers purchase milk from producers at the blended price paid by the handlers who are a party to the agreement. It was alleged without contradiction that these handlers have a much higher percentage of Class I milk than do the other handlers on the market and that they are able to purchase milk for Class I use at a much lower price than other handlers. For the past several years the difference has been insignificant since the market has been extremely short of milk and practically all milk in the pool has been used in Class I resulting in a blended price approximately equal to the Class I price.

Within the past few months however there has been a substantial percentage of producer milk being utilized in Class III. As a consequence the blended price in April was 42 cents (almost one cent a quart) below the Class I price. It is therefore obvious that if a handler were able to purchase Class I milk at the blended price he would enjoy a decided advantage over other handlers and could seriously disrupt the market.

A further factor indicating the desirability of a program for the Topeka market is its proximity to the Greater Kansas City market. The testimony of both producers and handlers indicates that there is a need for keeping the two markets in a proper relationship to each other. Since the Kansas City market is regulated by a marketing order, this can best be accomplished by having a similar regulation in the Topeka market.

(3) From the evidence it appears that the proposed marketing agreement and order which is attached hereto and made a part hereof meets the needs of the Topeka market. There follows a brief discussion of its provisions together with the substantiating data.

(a) *Definitions.* The definitions of the terms "act," "Secretary" and "person" are standard terms common to meet orders. Their inclusion is justified on the record and there appears to be no need for a discussion of them.

The marketing area has been defined as Shawnee County, Kansas. A thorough discussion of the problems involved in thus defining the marketing area appears in the record. The evidence shows that the proposed marketing area constitutes the natural market for Topeka handlers, that milk is sold by them

throughout the entire county, and that a relatively small percentage of milk is normally sold outside the county by Topeka handlers. There are several suburban communities and government institutions located outside the City of Topeka but within Shawnee County which are served exclusively by Topeka handlers. It appears that the limits of the county represent a natural boundary for the marketing area.

The term "producer" has been defined as anyone who, in conformity with municipal or state regulations for the production of Grade A milk, produces milk which is received at an approved plant of a handler or which is temporarily diverted to an unapproved plant by a handler. The definition would also include anyone producing a comparable quality of milk which was received at a plant supplying Federal institutions within the marketing area.

A proposal made at the hearing would have defined as producers only those persons producing milk in conformity with the health regulations of the City of Topeka. The evidence indicates, however, that the order, to provide equity, should also regulate the handling of all other milk of comparable grade disposed of within the area. The City of Topeka and all the neighboring cities from which milk might be disposed of within the marketing area operate under the United States Public Health Service Standard Ordinance as does the State of Kansas. This ordinance is also the standard used by Federal agencies in purchasing milk for use in government establishments. Therefore, it appears that the proposed definitions of producer would include all persons producing milk of a quality comparable to that required under the Topeka ordinance.

Because of the seasonality of milk production, the market receives more milk than it can utilize in Class I and Class II during certain seasons of the year. During the periods of heaviest production milk is often diverted directly from producers' farms to manufacturing plants in order to eliminate the necessity of first receiving the milk in an approved plant and then transferring it to a manufacturing plant. The person who produces this milk should be considered a producer during the periods when his milk is received at the unapproved plant. The producer definition has been written to include such a person when his milk has been diverted either by the handler who normally receives it or by the cooperative association of which he is a member.

A "handler" has been defined as the operator of an approved plant from which milk is distributed in the marketing area, or which serves as a country station for the assembling of milk to be shipped to a distributing plant. This definition would also include a cooperative association with respect to milk of producers which it handles for its own account.

"Approved plant" has been defined as any plant or portion thereof which has been approved by a health authority for the disposition of Grade A milk within the marketing area, or which is supplying

milk to a Federal institution within the marketing area.

The terms "handler" and "approved plant" are so closely interrelated that they should be discussed together. Considerable testimony appears in the record concerning whether a person should be considered a handler with respect to his entire local operation, or only with respect to that portion of it which bears health department approval. Since it appears that the advantages resulting from making a person a handler with respect to his entire operation might be more than offset by the extra work entailed, it is proposed that the term be restricted to that portion of the operation which bears health department approval.

The original proposal would have limited a handler to a person who met the approval of the health authorities of the City of Topeka, Kansas. The evidence indicates, however, that the term "handler," like that of "producer" should be broadened to include anyone disposing of a comparable grade of milk within the marketing area. The record further indicates that a cooperative association, even though it does not operate a plant, should be considered a handler with respect to milk which it handles for its own account. As pointed out above, production during certain seasons is greater than the market's requirement for Class I and Class II milk. At such times handlers may refuse to accept milk from certain producers, who, even though their milk were needed later in the year, would be out of the pool unless their milk were received by a handler. In order to keep the milk available to the market it should be included in the pool even when diverted to unapproved plants. While the larger handlers may divert this milk for their own account and thus keep it in the pool, in some instances handlers will turn the milk back to the cooperative association, which must find a market for it. In such instances this milk would be out of the pool unless the cooperative association were considered a handler with respect to it.

During the short months it may be necessary for a cooperative association to shift milk rather freely between handlers in order to keep all supplied with sufficient milk for their requirements. In such instances, where the milk of a particular producer might conceivably be received at three or four plants during a particular delivery period, it would appear desirable to consider the cooperative association as the handler for such milk rather than to have each of several plants the handler for it during a portion of the delivery period.

The term "producer-handler" would include anyone who is both a producer and a handler and who buys no milk from other producers. Since the order proposes that the milk of such persons be treated differently from that of regular producers, the term has been defined for facility in drafting the subsequent provisions of the order. In order to be classified as a producer-handler, a person must have the entire operation of his business, both the production of the milk and its distribution, as his personal enterprise and at his personal risk.

For administrative facility we have defined the terms "producer milk" and "other source milk." "Producer milk" includes all the milk which would be included in the market-wide pool, and "other source milk" includes all the milk which would be excluded from the pool.

We have also included a definition of "milk product." Many handlers carry a line of packaged products such as malted milk, fancy cheese, powdered mixes, etc., which they purchase in consumer packages and for which they act only as a distributor. Since under a broad interpretation of the term "other source milk," they might be required to report these products, we have proposed that a milk product shall not include a product which is disposed of in its original form without further processing or packaging by the handler. Elimination of such products will result in a saving of time to both the handlers and the market administrator and will in no way affect the computation of the pool.

The "market administrator" has been defined as the person to administer the order. His powers and duties will be discussed below.

The evidence shows that the delivery period should be defined as a calendar month.

The definition of a "cooperative association" is similar to that contained in other marketing orders and is substantiated by the evidence.

(b) *The classification of milk.* From the evidence it appears that the classification of milk should be as follows: Class I milk should include all milk, skim milk, flavored milk and buttermilk, disposed of for fluid consumption, the milk equivalent of all unaccounted for butterfat in excess of 3 percent of receipts (except receipts from other handlers) and all milk not specifically classified as Class II or Class III milk. Class II milk should include all milk disposed of as cream, cottage cheese, aerated cream, eggnog and substandard cream products. Class III milk should include butter, cheese, and other manufactured dairy products, milk sold to wholesale bakeries, etc., all skim milk not specifically classified as Class I or Class II and unaccounted for milk up to 3 percent of receipts (except receipts from other handlers).

We feel that the evidence indicates that buttermilk, flavored milk drinks and bottled skim milk should be in Class I since they must meet the same health requirements as fluid whole milk, and they are competitive with it. The only other items concerning which there was a controversy were aerated cream and eggnog. Both of these products are substitutes for fluid cream, and their sales replace sales of cream. We believe that they should be classified in the same class as fluid cream.

(c) *Transfers of milk.* The rules which are proposed herein for classifying or allocating milk which is transferred between handlers or between a handler and a nonhandler appear justified on the record. No controversy arose with respect to interhandler transfers and no comment appears necessary.

With respect to milk transferred to nonhandlers it is proposed that when moved more than 100 miles it will be

Class I if moved in the form of milk and Class II if moved in the form of cream. With respect to milk moved shorter distances it is proposed that milk moved to a manufacturing plant shall be Class III, and that milk moved to a plant which distributes milk and cream shall take the highest use remaining after allocating the top classification to the farmers who constitute the regular supply of that plant. There would be two exceptions to these rules. One would be in the case of milk which is moved to an unapproved plant from which Class I milk or Class II milk is disposed of in the marketing area, and in this instance producer milk would take the top classification up to the extent of the sale in the marketing area. The other would be in the case of milk moved to an unapproved plant which disposes of Class I or Class II products under Grade A label, and in this case producer milk would be allocated to Class I and Class II to the extent of such Grade A disposition. The evidence shows that some handlers make cottage cheese and buttermilk in their unapproved plants and that these products are sold as Grade A both within and without the area. Since the record shows that the only Grade A milk normally received in the unapproved plant is producer milk which is transferred over there such sales should be allocated to producer milk.

The only objection to the proposed rules was with respect to the classification of milk moved to a plant more than 100 miles from the marketing area. This opposition appeared to be based on the assumption that the definition of approved plant would include a handler's entire local operation. The proposed restriction of the approved plant should eliminate any grounds for objection to this proposal.

The proposal further provides that other source milk received by a handler shall be allocated to the lowest class use in the handler's plant, but that if other source milk is utilized by a handler in Class I or Class II when producer milk is available at class prices, he shall be required to pay into the producer-settlement fund an amount equal to the difference between the Class III price and the price of the class in which such milk was used.

In the original proposal this payment hinged upon whether the cooperative association was able to supply the milk. We feel, however, that such a proposal is too restrictive and places too much responsibility in the hands of the cooperative association. The handlers proposed that, in the event sufficient producer milk was not available to supply their Class I and Class II needs, other source milk be prorated over their entire use. We feel that such a provision might leave the way open to abuse by permitting some handlers to prorate their entire receipts of other source milk during periods when only a very small quantity would be needed to supply their requirements.

(d) *Class prices.* It appears from the record that the class prices in the Topeka market should be fixed so as to maintain a stable relationship between that market and the Greater Kansas City market. Over the past several years this difference

has averaged approximately 19 cents per hundredweight for milk testing 3.8 percent butterfat. During all but the last few months of that period, however, Topeka was buying its milk on a straight butterfat basis while the Greater Kansas City market was buying milk on a volume basis with a butterfat differential. Therefore, on milk testing more than 3.8 percent butterfat the difference between the two prices would lessen as the butterfat content of the milk increased. On high testing milk the Topeka price would be higher than the Greater Kansas City price.

Since the average butterfat content of milk in the Topeka market has always been in excess of 3.8 percent, the actual difference in the two prices probably was not more than 15 cents at the average Topeka test. It follows that with a uniform butterfat differential in both markets the Topeka price should not be allowed to vary more than 15 cents from the Greater Kansas City price. Therefore, we have proposed that the Class I price be fixed 60 cents over the basic price and that the Class II price be fixed 35 cents over the basic price. The Greater Kansas City order provides Class I and Class II prices of 75 cents and 50 cents respectively over the basic price.

The basic price on which Class I and Class II prices would be based, would be either the average price paid producers by a specified group of northern condenseries or the price resulting from a formula based on the market value of nonfat dry milk solids. The record indicates that not only would this basic price reflect the general values of dairy products on a nationwide basis, but that, since it is used in the Kansas City order, it is virtually mandatory that it be used in the Topeka market in order to maintain the proper relationship between the prices in the two markets.

The foregoing discussion relates to normal price relationships. However, during recent months the prices of manufactured dairy products, on which the Class I and Class II prices would be based, have fallen rapidly in relation to feed costs and the prices of competing farm commodities such as hogs, beef, and grain, especially wheat and corn.

Topeka prices have been maintained in recent months at levels that are higher than those which would have resulted from the formula prices provided in the attached order. The record indicates that prices should be maintained close to recent levels at least until a more normal relationship between dairy products and other farm commodities is restored. We are therefore proposing that minimum prices be fixed through the next short season. The Class I price has been fixed at not less than \$4.90 per hundredweight. This is 45 cents per hundredweight, approximately 1 cent per quart, below the price which was in effect last winter. The Class II price has been fixed at not less than \$4.65 per hundredweight. These prices represent an increase of 25 cents per hundredweight over the Class I and Class II prices which prevailed in the Topeka market during the spring months. They appear to be the minimum prices which will main-

tain production during the coming fall and winter months.

The Class III price has been fixed as the average price paid by three local plants for milk for manufacturing. Since these plants are the normal outlet for all the surplus milk on the Topeka market, it is only reasonable that milk of producers going into manufacturing uses should be priced the same as milk purchased by these plants from farmers who constitute their regular source of manufacturing milk. Historically surplus milk on the Topeka market has always been priced the same as milk purchased for manufacturing by these plants.

It has been proposed that the butterfat differential to handlers be fixed at 1/38 of the Class III price. Since handlers buy milk for manufacturing use on a direct butterfat basis, this is actually the butterfat differential paid for ungraded milk. Excess butterfat in Grade A milk should not be priced to handlers any lower than the price they are willing to pay for ungraded butterfat.

Handlers proposed a special price for Class I milk sold outside the marketing area which would be 23 cents below the regular Class I price. We do not believe that the evidence justifies the inclusion of such a provision. At the present time handlers are supplying this business and paying the Topeka Class I price for their milk. Topeka producers should not be expected to supply fluid milk at a lower cost than applies to the marketing area. The testimony clearly shows that the proposal has not been advanced as a means of disposing of seasonal surplus, but that on the contrary handlers hope to expand their sales permanently over a large area through a reduction in price. It does not appear that sufficient milk will be produced during the fall months to supply enough milk for an expansion of this type of business, and if such sales are made producers should receive the marketing area price.

(e) *Seasonal pricing.* The proposed order provides for a plan of seasonal adjustment in producer prices whereby 20 cents per hundredweight would be deducted from the blended price during the months of flush production and the amount withheld would be returned to producers in accordance with their production during the short months. The statistics on the market clearly show the need for some plan to encourage producers to level out their yearly production. For several years now the Topeka market has been very short of milk during the fall months, production averaging only 70 percent of the spring flush. Wide seasonal variation in production presents a problem to both handlers and producers and both groups urged the need for a leveling of seasonal production.

The proposed plan was advanced by producers and their testimony indicates that neither the "base and surplus plan" nor seasonal pricing (the two other methods most commonly used to achieve uniform production) would be as well suited to the needs of the Topeka market as the seasonal "take-out." A further reason for using this plan in the

Topeka market is the fact that it is in effect in the Greater Kansas City market. As pointed out above the relationship between these two markets is very close, and in order to maintain the proper balance between the two, the seasonal pricing pattern in each should be uniform.

(f) *The administrative assessment.* It appears that an assessment of 2 cents per hundredweight will be required to defray the cost of administering the order. This is the assessment which is provided in the present marketing agreement. The record indicates that it has proven adequate to cover the cost of administering the agreement. The record further shows that there would be very little difference in cost between the administration of the present agreement and of the proposed order.

(g) *The deduction for marketing services.* The record indicates that the market administrator should check weights and tests of milk from non-member producers and render other marketing service for them. The record shows that a deduction of 3 cents per hundredweight would be needed for this purpose. Experience under the present agreement has shown that 3 cents per hundredweight is the amount needed to defray these costs.

In the case of producers who are members of a qualified cooperative association which is actually performing these services, in lieu of the above deduction, the association check-off would be deducted.

The latter provision is in accordance with the act which specifically exempts from the marketing service provisions of an order, those producers who are members of a qualified cooperative association which is actually performing such services for its members.

(h) *Payments to producers.* The proposed order provides for a market-wide pool under which all producers supplying the market would receive the same prices regardless of the utilization of the milk by the handler who received their milk. Although the uniform price is computed only once a month, provision is made for payment to producers semi-monthly. Considerable testimony appears in the record with respect to the amount of the mid-delivery period payment. It was variously proposed that this payment be at the previous month's blended price or at the approximate value of the milk. The former appears to present too great a possibility of handlers' being required to overpay producers who may leave the market during the delivery period. The approximate value is a vague term and could result in substantial differences in the amount of the payments made by different handlers. After reviewing the whole matter it is proposed that this payment be at the Class III price for the previous period. This would insure uniformity of payment, would provide producers with a substantial payment and yet protect handlers from making overpayments since the Class III price would always be substantially below the blended price.

It appears unnecessary to include in the order a provision with respect to the correction of overpayments to producers.

When it can be proven that such overpayments were made through error and were not intended as a premium, handlers would be permitted to correct these overpayments without the inclusion of a specific provision in the order.

It is also proposed that the producer butterfat differential be computed by adding 4 cents to the price of 92-score butter at Chicago and dividing the result by 10. This is the differential being paid in the market at the present time and the evidence indicates that it should be continued.

(i) *Other provisions.* The other provisions of the order are of a general administrative nature. They define the powers and duties of the market administrator, prescribe the information to be reported by handlers each month, set forth the rules to be followed by the market administrator in making the computations required by the order and provide a plan for liquidation of the order in the event of its suspension or termination. All are substantiated by the record, were unopposed by any parties, and merit no further comment.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of the Shawnee County Milk Producers' Association and the Beatrice Foods Company, a handler under the proposed order. The briefs contain statements of fact, conclusions, and arguments, with respect to all the provisions of the proposed order as well as to whether the handling of milk in the Topeka market is in interstate commerce and whether there is need for an order. Every point covered in the briefs was carefully considered, along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. Although the briefs do not contain specific requests to make proposed findings, it is assumed that the statements, conclusions and arguments submitted were for this purpose and they are treated accordingly. To the extent that such proposed findings and conclusions are inconsistent with the proposed findings and conclusions contained herein, the implied request to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in this recommended decision.

Recommended marketing agreement and order. The following order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this recommended decision because the regulatory provisions thereof would be the same as those contained in the recommended order.

SECTION 1. Definitions. The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246 (1937) 7 U. S. C. 601 et seq.), as amended.

(b) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture au-

thorized to exercise the powers and to perform the duties of the Secretary of Agriculture of the United States.

(c) "Topeka, Kansas, marketing area" hereinafter called "marketing area," means the City of Topeka and all the territory in Shawnee County, Kansas.

(d) "Person" means any individual, partnership, corporation, association or any other business unit.

(e) "Producer" means any person, irrespective of whether such person is also a handler, who produces milk which is received at an approved plant: *Provided*, That such milk is (1) produced under a dairy farm permit or rating issued by the health authorities of any municipal or state government for the production of milk to be disposed of as Grade A milk, or (2) acceptable to agencies of the United States Government for fluid consumption in its institutions or bases. This definition shall include any such person who is regularly classified as a producer but whose milk is caused to be temporarily diverted by a handler from the farm to an unapproved plant.

(f) "Handler" means (1) any person in his capacity as the operator of an approved plant (i) from which Class I milk or Class II milk is disposed of in the marketing area on wholesale and retail routes (including plant stores) or (ii) which is used only as a receiving station for the assembling or cooling of milk which is shipped to a plant described in subdivision (i) of this subparagraph, or (2) any cooperative association, with respect to the milk of any producer which it causes to be diverted to either an approved or unapproved plant for the account of such cooperative association.

(g) "Approved plant" means any milk plant or portion thereof (1) which is approved by the health authorities of any municipal or state government for the handling of milk for consumption as Grade A milk and from which Class I milk or Class II milk is disposed of within the marketing area, or (2) which is supplying milk or cream to any agency of the United States Government located within the marketing area.

(h) "Producer-handler" means any person who is both a producer and a handler and who receives no milk from other producers: *Provided*, That (1) the maintenance, care and management of the dairy animals and other resources necessary to produce the milk are the personal enterprise of and at the personal risk of such person in his capacity as a producer, and (2) the processing, packaging and distribution of milk are the personal enterprise of and at the personal risk of such person in his capacity as a handler. A producer who processes and packages milk of his own production shall not be considered a producer-handler if his entire output is disposed of to other handlers who purchase or receive milk in bulk from producers.

(i) "Producer milk" means all milk produced by a producer, other than a producer-handler, which is purchased or received by a handler either directly from such producers or from other handlers.

(j) "Other source milk" means all milk and milk products other than producer milk.

(k) "Milk product" means any product manufactured from milk or milk ingredients except those which are disposed of in the form in which received without further processing or packaging by the handler.

(l) "Market administrator" means the person designated pursuant to section 2 as the agency for the administration hereof.

(m) "Delivery period" means calendar month or the portion thereof during which this order is in effect.

(n) "Cooperative association" means any cooperative association of producers which the Secretary determines (1) to have its entire activities under the control of its members and (2) to have and to be exercising full authority in the sale of milk of its members.

SEC. 2. Market administrator — (a) *Designation.* The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall:

(1) Administer the terms and provisions hereof;

(2) Report to the Secretary complaints of violations of the provisions hereof;

(3) Make rules and regulations to effectuate the terms and provisions hereof; and

(4) Recommend to the Secretary amendments hereto.

(c) *Duties.* The market administrator shall:

(1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(2) Pay out of the funds provided by section 10, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office, except as provided by section 9 hereof.

(3) Keep such books and records as will clearly reflect the transactions provided for herein and surrender the same to his successor or to such other person as the Secretary may designate;

(4) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not (i) made reports pursuant to section 3, or (ii) made payments pursuant to section 8; and

(5) Promptly verify the information contained in the reports submitted by handlers.

SEC. 3. Reports of handlers—(a) *Periodic reports.* On or before the 5th day after the end of each delivery period, each handler who purchased or received milk from sources other than his own production or other handlers shall, with respect to all producer milk and other source milk which was purchased, received, or produced by such handler dur-

ing the delivery period, report to the market administrator in the detail and form prescribed by the market administrator as follows:

(1) The receipts at each plant of milk from each producer, the butterfat content, and the number of days on which milk was received from any producer who did not deliver milk during the entire delivery period;

(2) The receipts from such handler's own farm production and the butterfat content;

(3) The receipts of milk, cream and milk products from handlers who purchase or receive milk from producers and the butterfat content;

(4) The receipts of other source milk;

(5) The respective quantities of milk and milk products and the butterfat content thereof which were sold, distributed, or used including sales to other handlers for the purpose of classification pursuant to section 4;

(6) The sales of Class I and Class II products outside the marketing area; and

(7) Such other information with respect to the use of milk as the market administrator may request.

(b) *Reports of payments to producers.* On or before the 20th day after the end of each delivery period, upon the request of the market administrator, each handler who purchased or received milk from producers shall submit to the market administrator his producer payroll for such delivery period which shall show for each producer: (1) The total pounds of milk delivered and the average butterfat content thereof and (2) the net amount of such handler's payments to such producer with the prices, deductions and charges involved.

(c) *Reports of producer-handlers and handlers whose sole source of supply is from other handlers.* Producer-handlers and handlers whose sole source of supply is from other handlers shall make reports to the market administrator at such time and in such manner as the market administrator may require.

(d) *Verification of reports and payments.* The market administrator shall verify all reports and payments of each handler by audit of such handler's records and the records of any other handler or person upon whose disposition of milk the classification depends. Each handler shall keep adequate records of receipts and utilization of milk and milk products and shall, during the usual hours of business, make available to the market administrator such records and facilities as will enable the market administrator to:

(1) Verify the receipts and disposition of all milk and milk products and in the case of errors or omissions, ascertain the correct figures;

(2) Weigh, sample and test for butterfat content the milk purchased or received from producers and any product of milk upon which classification depends; and

(3) Verify the payments to producers prescribed in section 8.

SEC. 4. Classification of milk—(a) *Milk to be classified.* All milk and milk products purchased or received by each handler shall be classified by the market

administrator in the classes set forth in paragraph (b) of this section.

(b) *Classes of utilization.* Subject to the conditions set forth in paragraph (c) of this section, the classes of utilization of milk shall be as follows:

(1) Class I milk shall be all milk and skim milk disposed of for consumption as milk, skim milk, buttermilk, flavored milk, and milk drinks, and unaccounted for butterfat in excess of 3 percent of the total receipts of butterfat (except receipts from other handlers) converted to a 3.8 percent milk equivalent, and all milk not classified as Class II milk or Class III milk pursuant to subparagraphs (2) and (3) of this paragraph.

(2) Class II milk shall be all milk used to produce cream which is disposed of in the form of cream other than for use in products specified in subparagraph (3) of this paragraph, cottage cheese, products sold or disposed of in the form of cream testing less than 18 percent butterfat, aerated cream and eggnog.

(3) Class III milk shall be all milk used to produce butter, cheese (other than cottage cheese), evaporated milk, condensed milk, ice cream, powered whole milk; used for starter churning, wholesale baking and candy making purposes; accounted for as salvage from products where the recovery of fat is impossible; all skim milk disposed of as animal feed or in skim milk products not specified in Class I or Class II; and unaccounted for butterfat up to 3 percent of the total receipts of butterfat (except receipts from other handlers, converted to a 3.8 percent milk equivalent).

(c) *Transfers of milk.* (1) Milk, skim milk or cream moved in fluid form from an approved plant to an unapproved plant located more than 100 miles from the approved plant where such milk was received from producers shall be Class I if moved in the form of milk or skim milk, and Class II if moved in the form of cream.

(2) Except as provided in subparagraphs (4) and (5) of this paragraph milk, skim milk, or cream which is moved from an approved plant to an unapproved plant from which any milk, skim milk, or cream is disposed of as Class I or Class II milk within the marketing area shall be classified as Class I or Class II to the extent of such disposition.

(3) Except as provided in subparagraphs (4) and (5) of this paragraph milk, skim milk or cream which is moved from an approved plant to an unapproved plant from which any milk, skim milk, or cream is disposed of as a Class I or Class II product under a Grade A label shall be classified as Class I or Class II to the extent of such disposition.

(4) Milk moved as milk or skim milk from an approved plant to an unapproved plant which is located less than 100 miles from the approved plant, and from which fluid milk is distributed shall be Class I unless all the following conditions are met: (i) The market administrator is permitted to verify the records of such unapproved plant; (ii) the receipts of producer milk at the approved plant are greater than the total sales of Class I and Class II milk by the handler in the marketing area; and (iii)

milk is received at the unapproved plant from dairy farmers who the market administrator determines constitute its regular source of supply.

If all the above conditions are met the market administrator shall classify such milk as reported by the handler subject to reclassification upon verification as follows: (a) Determine the use of all milk and milk products at such unapproved plant, and (b) allocate the milk moved from the approved plant to the highest use remaining after subtracting in series beginning with the highest use classification the receipts of milk at the unapproved plant direct from dairy farmers.

(5) Milk moved as cream from an approved plant to an unapproved plant which is located less than 100 miles from the approved plant, and from which fluid cream is distributed shall be Class II unless all of the following conditions are met: (i) The market administrator is permitted to verify the records of such unapproved plant; (ii) the receipts of producer milk at the approved plant are greater than the total sales of Class I and Class II milk from the handler's routes in the marketing area; and (iii) milk is received at the unapproved plant from dairy farmers who the market administrator determines constitute its regular supply.

If all of the above conditions are met, the market administrator shall classify such milk as reported by the handler subject to reclassification upon verification as follows: (a) Determine the use of all milk and milk products at such unapproved plant; and (b) allocate the milk moved from the approved plant to the highest use remaining after subtracting in series beginning with the highest use classification the receipts of milk at the unapproved plant direct from dairy farmers.

(6) Except as provided in subparagraphs (1) and (2) of this paragraph, milk, skim milk and cream moved from an approved plant to an unapproved plant which does not distribute fluid milk or cream shall be Class III milk.

(7) Any milk moved from an approved plant to an approved plant of another handler who purchases or receives milk from producers, shall be Class I if moved in the form of milk or skim milk, and Class II if moved in the form of cream, unless utilization in another class is indicated in writing signed by both the seller and the buyer on or before the 5th day after the end of the delivery period, but in no event shall the amount classified in any class exceed the total use in such class by the receiving handler: *Provided*, That if either or both handlers have purchased other source milk such milk so sold or disposed of shall be classified at both plants so as to return the highest class utilization to producer milk.

(8) Milk sold or disposed of by a handler who purchases or receives milk from producers to a producer-handler or to a handler who purchases or receives no milk from producers shall be Class I if disposed of in the form of milk or skim milk, and Class II if disposed of in the form of cream.

(d) *Responsibility of handlers in establishing the classification of milk.* In

establishing the classification as required in paragraph (b) of this section of any milk received by a handler from producers, the burden rests upon the handler who received the milk from producers to account for the milk and to prove to the market administrator that such milk should not be classified as Class I milk.

(e) *The allocation of other source milk.* Other source milk purchased or received by a handler who purchases or receives milk from producers shall be allocated to Class III except that other source milk may be allocated to Class II to the extent that Class II milk exceeds the amount of all producer milk classified as Class II milk, and other source milk may be allocated to Class I only to the extent that the total amount of the Class I milk of the handler exceeds the total amount of producer milk received by such handler.

(f) *Computation of milk in each class.* For each delivery period each handler shall compute, in the manner and on forms prescribed by the market administrator the amount of milk in each class as defined in paragraph (b) of this section, as follows:

(1) Determine the total pounds of milk received as follows: Add together the total pounds of milk received from (i) producers, (ii) own farm production, (iii) other handlers, and (iv) other sources.

(2) Determine the total pounds of butterfat received as follows: (i) Multiply by its average butterfat test the weight of the milk received from (a) producers, (b) own farm production, (c) other handlers, and (d) other sources, and (ii) add together the resulting amounts.

(3) Determine the total pounds of milk in Class I as follows: (i) Convert to pounds the quantity of Class I milk on the basis of 2.15 pounds per quart, (ii) subtract the weight of any flavoring materials included, (iii) multiply the result by the average butterfat test of such milk, and (iv) if the quantity of butterfat so computed, when added to the pounds of butterfat in Class II milk and Class III milk, computed pursuant to subdivision (ii) of subparagraph (4) and subdivision (iii) of subparagraph (5) of this paragraph, is less than the total pounds of butterfat received computed in accordance with subparagraph (2) of this paragraph, an amount equal to the difference shall be divided by 3.8 percent and added to the quantity of milk determined pursuant to subdivisions (1) and (ii) of this subparagraph.

(4) Determine the total pounds of milk in Class II as follows: (i) Multiply the actual weight of each of the several products of Class II milk by its average butterfat test, (ii) add together the resulting amounts, and (iii) divide the result obtained in subdivision (ii) of this subparagraph by 0.038.

(5) Determine the total pounds of milk in Class III as follows: (i) Multiply the actual weight of each of the several products of Class III by its average butterfat content; (ii) add together the resulting amounts; (iii) add the amount of butterfat allowed as plant shrinkage pursuant to subparagraph (6) of this

paragraph; and (iv) divide the resulting sum by 0.038.

(6) The amount of butterfat to be allowed as plant shrinkage shall be the smaller of the following amounts: (i) 3 percent of the total receipts of butterfat by the handler, exclusive of receipts from other handlers, or (ii) the amount, if any, by which the sum of the pounds of butterfat computed pursuant to subdivision (iii) of subparagraph (3), subdivision (ii) of subparagraph (4), and subdivision (ii) of subparagraph (5) of this paragraph, is less than the total receipts of butterfat by the handler.

(7) Determine the classification of milk received from producers as follows: (i) Subtract from the total pounds of milk in each class the pounds of other source milk allocated to such class pursuant to paragraph (e) of this section, and (ii) subtract from the remaining pounds of milk in each class the pounds of producer milk which were received from other handlers and used in such class.

(g) *Reconciliation of utilization of milk by classes with receipts of milk from producers.* In the event of a difference between the total quantity of milk utilized in the several classes as computed pursuant to subparagraph (7) of paragraph (f) of this section and the quantity of milk received from producers, except for excess milk or milk equivalent of butterfat pursuant to paragraph (c) of section 6 such difference shall be reconciled as follows:

(1) If the total utilization of milk in the various classes for a handler, as computed pursuant to subparagraph (7) of paragraph (f) of this section is less than the receipts of milk from producers, the market administrator shall increase the total pounds of milk in Class III for such handler by an amount equal to the difference between the receipts of milk from producers and the total utilization of milk by classes for such handler.

(2) If the total utilization of milk in the various classes for any handler, as computed pursuant to subparagraph (7) of paragraph (f) of this section, is greater than the receipts of milk from producers, the market administrator shall decrease the total pounds of milk for such handler by subtracting in series beginning with the lowest class use of such handler an amount equal to the differences between the receipts of milk from producers and the total utilization of milk by classes for such handler.

SEC. 5. Minimum prices—(a) Class prices. Subject to the differential set forth in paragraph (c) of this section, each handler shall pay producers at the time and in the manner set forth in section 8, not less than the following prices for milk purchased or received from them:

(1) *Class I milk.* The price per hundredweight for Class I milk during each delivery period shall be the price determined pursuant to paragraph (b) of this section, plus 60 cents: *Provided,* That for any delivery period prior to April 1, 1948 the price shall be not less than \$4.90.

(2) *Class II milk.* The price per hundredweight for Class II milk during each

delivery period shall be the price determined pursuant to paragraph (b) of this section plus 35 cents: *Provided,* That for any delivery period prior to April 1, 1948 the price shall be not less than \$4.65.

(3) *Class III milk.* The price per hundredweight for Class III milk during each delivery period shall be the average price ascertained by the market administrator to have been paid or to be paid for ungraded milk of 3.8 percent butterfat content received during such delivery period at the following plants: The Jensen Creamery Company at its plant at Topeka, Kansas, the Beatrice Foods Company at its plant at Topeka, Kansas, and the Meyer Sanitary Milk Company at its plant at Valley Falls, Kansas.

(b) *Basic formula price to be used in determining Class I and Class II prices.* The basic formula price to be used in determining the Class I and Class II prices shall be the higher of the prices calculated pursuant to subparagraphs (1) or (2) of this paragraph.

(1) The arithmetical average of the prices per hundredweight reported to the United States Department of Agriculture as being paid all farmers for milk of 3.5 percent butterfat content, received during the immediately preceding delivery period at the following plants and places, divided by 3.5 and multiplied by 3.8:

Company and Location

Borden Co., Mt. Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
Borden Co., New London, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(2) The price calculated by the market administrator as follows: (i) Multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the immediately preceding delivery period, and add 20 percent, and (ii) add $3\frac{1}{2}$ cents for each full one-half cent that the price of nonfat dry milk solids suitable for human consumption is above $5\frac{1}{2}$ cents per pound, or subtract $3\frac{1}{2}$ cents for each full one-half cent that the price of such nonfat dry milk solids is below $5\frac{1}{2}$ cents per pound. The price per pound of nonfat dry milk solids to be used shall be the arithmetical average of the carlot prices, both spray and roller process, suitable for human consumption, f. o. b. manufacturing plants in the Chicago area, as reported by the United States Department of Agriculture for the immediately preceding delivery period, including in such average, the quotations for any part of the second preceding delivery period which were not published and available for the determination of the price of such nonfat dry milk solids

for the previous delivery period. In the event the United States Department of Agriculture does not publish carlot prices for nonfat dry milk solids suitable for human consumption, f. o. b. manufacturing plants, the average of the carlot prices for nonfat dry milk solids suitable for human consumption delivered at Chicago shall be used, and $3\frac{1}{2}$ cents shall be added or subtracted for each full one-half cent that the latter price is above or below $7\frac{1}{2}$ cents per pound.

(c) *Butterfat differential.* If the average butterfat content of milk purchased or received from producers by any handler during any delivery period is more or less than 3.8 percent, there shall be added or subtracted per hundredweight of such milk for each one-tenth of 1 percent above or below 3.8 percent an amount equal to the Class III price for such delivery period, divided by 38.

SEC. 6. Application of provisions.

(a) The provisions of sections 4, 5, 7, 8, 9, 10, 11, 12, and 13, shall not apply to a producer-handler or to a handler whose sole source of supply is from other handlers.

(b) If a handler has purchased or received other source milk the market administrator, in determining the net pool obligation of the handler pursuant to paragraph (a) of section 7 shall consider such milk as Class III milk. If the receiving handler sells or disposes of such milk for other than Class III purposes, the market administrator shall add an amount equal to the difference between (1) the value of such milk according to its utilization by the handler, and (2) the value at the Class III price. This additional payment shall not apply if the market administrator determines that such other source milk was used in Class I and Class II only to the extent that producer milk was not available to the handler at the class prices provided pursuant to section 5 (a) (1) and (2).

(c) If a handler, after subtracting receipts from other handlers and receipts of other source milk has disposed of milk or butterfat in excess of the milk or butterfat which on the basis of his reports, has been credited to his producers as having been delivered by them the market administrator, in determining the net pool obligation of the handler pursuant to paragraph (a) of section 7, shall add an amount equal to the value of such milk or butterfat according to its utilization by the handler.

(d) Milk which is caused to be diverted to a handler directly from producers' farms to an approved plant of another handler for not more than 15 days during any delivery period shall be considered an interhandler transfer of milk, and shall be considered as having been received by the handler who caused the milk to be diverted.

(e) In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I and Class II milk in another marketing area regulated by another milk marketing order issued pursuant to the act, the provisions of this order shall not apply except as follows:

(1) The handler shall, with respect to his total receipts and utilization of milk, make reports to the market adminis-

trator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator in accordance with the provisions of section 3 (d) hereof.

(2) If the prices which such handler is required to pay under the other order to which he is subject for milk which would be classified as Class I or Class II milk under this order, are less than the respective prices provided pursuant to subparagraphs (1) and (2) of section 5 (a) of this order, such handler shall pay to the market administrator for deposit into the producer settlement fund (with respect to all milk disposed of as Class I milk or Class II milk within the marketing area) an amount equal to the difference between the value of such milk as computed pursuant to subparagraphs (1) and (2) of section 5 (a) of this order, and its value as determined pursuant to the other order to which he is subject.

SEC. 7. Determination of uniform price to producers—(a) Net pool obligation of handlers. The net pool obligation of each handler for milk received during each delivery period shall be a sum of money computed by the market administrator as follows:

(1) Multiply the pounds of milk in each class computed pursuant to section 4 by the class prices set forth in section 5 and add together the resulting values;

(2) Add, if the average butterfat content of all milk purchased or received from producers is more than 3.8 percent and deduct if the average butterfat content of all milk purchased or received from producers is less than 3.8 percent, an amount equal to the total value of the butterfat differential applicable pursuant to paragraph (c) of section 5; and

(3) Add an amount equal to the total values pursuant to paragraphs (b) and (c) of section 6.

(b) *Computation and announcement of the uniform price.* The market administrator shall compute and announce the uniform price per hundredweight for milk purchased or received from producers during each delivery period in the following manner:

(1) Combine into one total the net pool obligations computed pursuant to paragraph (a) of this section of all handlers who made the reports prescribed in section 3 and who made the payments prescribed in section 8 for the previous delivery period;

(2) For each of the delivery periods of May, June, and July subtract an amount equal to 20 cents per hundredweight of the total amount of milk received by handlers from producers and included in these computations to be retained in the producer-settlement fund for the purposes specified in subparagraph (2) of paragraph (f) of section 8;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Deduct if the average butterfat content of all milk purchased or received from producers is more than 3.8 percent, and add, if the average butterfat content of all milk purchased or received from producers is less than 3.8 percent, the total value of the butterfat differ-

ential applicable pursuant to paragraph (c) of section 8;

(5) Divide by a figure equal to the total hundredweight of milk received by handlers from producers and included in these computations;

(6) Subtract from the figure computed pursuant to subparagraph (5) of this paragraph not less than 4 cents nor more than 5 cents for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payments by handlers. This result shall be known as the uniform price for such delivery period for the milk of producers containing 3.8 percent butterfat; and

(7) On or before the 8th day after the end of such delivery period, mail to all handlers (i) such of these computations as do not disclose information confidential pursuant to the act; (ii) the uniform price per hundredweight computed pursuant to subparagraph (6) of this paragraph; (iii) the prices for Class I milk, Class II milk and Class III milk; and (iv) the butterfat differentials computed pursuant to paragraph (c) of section 5 and paragraph (c) of section 8.

SEC. 8. Payments for milk—(a) Time and method of payment. On or before the 12th day after the end of each delivery period, each handler, after deducting the amount of the payment made pursuant to paragraph (b) of this section, and subject to the differential set forth in paragraph (c) of this section, shall make payment to producers at the uniform price per hundredweight computed pursuant to paragraph (b) of section 7 for the total quantity of milk received from producers: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

(b) *Half-delivery period payments.* On or before the 25th day of each delivery period, each handler shall make payment to each producer for milk received from him during the first 15 days of the delivery period at not less than the Class III price for the previous delivery period: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

(c) *Butterfat differential.* If during the delivery period, any handler has purchased or received from any producer milk having an average butterfat content other than 3.8 percent, such handler, in making the payments prescribed in paragraph (a) of this section, shall add to the uniform price for each one-tenth of 1 percent that the average butterfat content of such milk in above 3.8

percent not less than, or shall deduct from the uniform price for each one-tenth of 1 percent that such average butterfat content is below 3.8 percent not more than an amount computed by the market administrator as follows: add 4 cents to the average price of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and divide the resulting sum by 10.

(d) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to paragraphs (e) and (g) of this section and out of which he shall make all payments to handlers pursuant to paragraphs (f) and (g) of this section: *Provided*, That the market administrator shall offset any such payment due to any handler against payments due from such handler. Immediately after computing the uniform price for each delivery period, the market administrator shall compute the amount by which each handler's net pool obligation is greater or less than the sum required to be paid producers by such handler pursuant to this section and shall enter such amount on such handler's account as such handler's pool debit or credit, as the case may be, and render such handler a transcript of his account.

(e) *Payments to the producer-settlement fund.* On or before the 10th day after the end of each delivery period, each handler shall make full payment to the market administrator of any pool debit balance shown on the account rendered pursuant to paragraph (d) of this section from such delivery period.

(f) *Payments out of the producer-settlement fund.* (1) On or before the 11th day after the end of each delivery period, the market administrator shall pay to each handler the pool credit balance shown on the account rendered pursuant to paragraph (d) of this section for such delivery period, less any unpaid obligations of the handler. If at such time the balance in the producer-settlement fund is insufficient to make payment pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler, who, on the 12th day after the end of each delivery period has not received the balance of the payment due him from the market administrator shall be deemed to be in violation of paragraph (a) of this section if he reduces his total payments uniformly to all producers by not more than the amount of the reduction in payments from the producer-settlement fund. Such handler shall complete such payments not later than the time of making payments to producers next following after receipt of the balance from the market administrator. Nothing in this paragraph shall abrogate the right of a cooperative association to make payment to its member producers in accordance with the payment plan of such cooperative association.

PROPOSED RULE MAKING

(2) On or before the 15th day after the end of each of the delivery periods of October, November and December, the market administrator shall pay out of the producer-settlement fund to each producer an amount computed as follows: divide one-third of the total amount held pursuant to subparagraph (2) of paragraph (b) of section 7 by the hundredweight of producer milk received during the delivery period involved (October, November or December as above) and apply the resulting amount per hundredweight to the milk of each producer for such delivery period: *Provided*, That payment under this subsection due any producer who has given authority to a cooperative association which is qualified pursuant to paragraph (b) of section 9 to receive payments for his milk shall be distributed to such cooperative association if such cooperative association requests receipt of such payment.

(g) *Adjustment of errors in payment.* Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to the producer-settlement fund pursuant to paragraph (e) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billings, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to paragraph (f) of this section, the market administrator shall, within 5 days, make such payment to such handler or offset any such payment due any handler against payments due from such handler. Whenever verification by the market administrator of the payment by a handler to any producer, for milk purchased or received by such handler discloses payment to such producer of less than is required by this section, the handler shall make up such payment to the producer not later than the time of making payments to producers next following such disclosure.

(h) *Statements to producers.* In making payments to producers as prescribed in paragraph (a) of this section, each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer which shall show:

(1) The delivery period and the identity of the handler and of the producer;

(2) The total pounds of milk delivered by the producer and the average butterfat test thereof, and the pounds per shipment if such information is not furnished to the producer each day;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of paragraphs (a) and (c) of this section;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and section 9 together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

SEC. 9. Marketing services—(a) Deductions for marketing services. Except as set forth in paragraph (b) of this section, each handler shall deduct 3 cents per hundredweight from the payments made to each producer other than himself pursuant to paragraph (a) of section (8) with respect to all milk of each producer purchased or received by such handler during the delivery period and shall pay such deductions to the market administrator on or before the 12th day after the end of such delivery period. Such monies shall be expended by the market administrator for market information to, and for the verification of weights, sampling and testing of milk received from said producers.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association which the Secretary determines to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing the services set forth in paragraph (a) of this section, each handler shall make the deductions from the payments to be made pursuant to paragraph (a) of section 8 which are authorized by such producers, and, on or before the 12th day after the end of each delivery period, pay such deductions to the market administrator for the account of the association of which such producers are members.

SEC. 10. Expense of administration—(a) Payments by handlers. As his prorata share of the expense of administration hereof, each handler who purchased or received milk from producers, with respect to all milk purchased or received from producers during the delivery period, shall pay to the market administrator, on or before the 12th day after the end of such delivery period, 2 cents per hundredweight or such lesser amount as the Secretary may from time to time prescribe.

SEC. 11. Effective time, suspension or termination—(a) Effective time. The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to paragraph (b) of this section.

(b) *Suspension or termination.* The Secretary may suspend or terminate any or all of the provisions hereof, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This order shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder the final accrual or ascertainment of which require further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required

to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(1) The market administrator, or such other person as the Secretary may designate, shall (i) continue in such capacity until removed by the Secretary, (ii) from time to time account for all receipts and disbursements and, when so directed by the Secretary, deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary may direct, and (iii) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof, the market administrator, or such person as the Secretary may designate, shall liquidate, if so directed by the Secretary, the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

SEC. 12. Separability of provisions. If any provisions hereof, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

SEC. 13. Agents. The Secretary may, by designation in writing name any officer or employee of the United States, or name any bureau or division of the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

Filed at Washington, D. C., this 25th day of September 1947.

[SEAL]

F. R. BURKE,
Acting Assistant Administrator.

[F. R. Doc. 47-8854; Filed, Sept. 30, 1947; 8:53 a. m.]

[17 CFR, Part 967]

HANDLING OF MILK IN ST. JOSEPH COUNTY, IND., MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS THERETO WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND TO PROPOSED AMENDMENTS

Pursuant to the rules of practice and procedure, as amended, governing pro-

ceedings to formulate marketing agreements and orders (7 CFR Supps., 900.1 et seq.; 10 F. R. 11791; 11 F. R. 7737; 12 F. R. 1159) notice is hereby given of the filing with the Hearing Clerk of a recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed amended order and to a proposed marketing agreement, regulating the handling of milk in the South Bend-La Porte, Indiana, milk marketing area, to be made effective pursuant to the provisions of the Agriculture Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after the publication of this recommended decision in the FEDERAL REGISTER.

Preliminary statement. A public hearing, on the record of which the proposed amended order and the proposed marketing agreement were formulated, was called by the Production and Marketing Administration, United States Department of Agriculture, following receipt of proposals filed by the Pure Milk Association. Additional proposals for consideration were submitted by Reliable Dairy Company, Inc., et al., and the Dairy Branch, Production and Marketing Administration. The public hearing was held at South Bend, Indiana, on April 28-May 2, and May 5-6, 1947, inclusive, upon notice issued on April 4, 1947 (12 F. R. 2258).

The principal issues presented on the record of the hearing were concerned with the following:

- (1) The content and scope of various definitions including, "marketing area," "producer," "handler," "approved plant" and others.
- (2) The duties and responsibilities of the market administrator.
- (3) The requirements of handlers in connection with reports and record-keeping.
- (4) The classification and allocation of milk.
- (5) The determination and structure of prices for the various classes of milk.
- (6) The application of certain provisions of the order.
- (7) The determination of the uniform price of milk to be paid to producers.
- (8) The time and method of payment for producer milk.
- (9) The expenses of administration.
- (10) Marketing service deductions.
- (11) The adjustment of accounts and interest on overdue accounts.

Findings and conclusions. Proposed findings and conclusions with respect to the issues presented at the hearing, together with reasons therefor, are as follows:

(1) (a) The marketing area should be defined to include the municipalities of South Bend, Mishawaka, La Porte and Michigan City, Indiana.

Current Order No. 20 regulates the handling of milk in La Porte County, Indiana, which encompasses the cities of La Porte and Michigan City. Current

Order No. 67 regulates the handling of milk in St. Joseph County, Indiana, including the cities of South Bend and Mishawaka but excluding the townships of Olive, Liberty and Lincoln. These two counties contain no other cities. These four cities have ordinances which specify similar health requirements covering the production, processing, and distribution of milk for fluid consumption within their limits. These ordinances are not applicable to that portion of the two counties included in the present marketing areas outside of the corporate limits of these cities. There is milk sold outside of the city limits of the four cities but inside of the current marketing area which is not subject to regulation, since Current Orders No. 20 and No. 67 (hereafter referred to as the "Current Orders") regulate only the handling of milk meeting ordinance requirements.

Handlers proposed to extend the marketing area to include, in addition to the territory defined in the Current Orders, certain adjoining townships in Michigan and to extend regulation to the handling of uninspected milk. Producers supported the inclusion in the marketing area of the four cities and the townships adjacent thereto. If only approved milk is to be subject to regulation (see conclusion (1) (b) (c) and (d)) no useful purpose would be served by including, in the marketing area, territory other than that within the four cities.

No objection was raised to a proposal for the consolidation of the Current Orders by redefining the marketing area under Order No. 67. The production and marketing of milk for the cities of South Bend, Mishawaka, La Porte and Michigan City, are subject to common economic and climatic conditions. On the average the uniform prices received by producers under Order No. 20 have been substantially the same as those received by producers under Order No. 67. Producers located both in Indiana and Michigan supplying any one of the four given cities are intermingled with producers supplying one or more of the remaining three cities. Such producers are intermingled with producers supplying the metropolitan Chicago markets, with dairy farmers supplying certain Michigan markets and with dairy farmers supplying dairy manufacturing plants located in Indiana and Michigan.

Receiving stations for the Chicago market are located at Galien, Michigan, Wellsboro, Tea Garden and Kouts, Indiana. Trucks pick up milk for these stations from farmers who are intermingled with farmers supplying the four cities in question. Handlers have purchased emergency milk from manufacturing plants located at Galien and Niles, Michigan. Surplus milk from handlers is disposed of to manufacturing plants located at Galien and Niles, Michigan, Warsaw, Nappanee, New Paris and Goshen, Indiana. These manufacturing plants produce dairy products which are distributed or which are sold in competition with products disposed of in other states outside of Indiana and Michigan. Some handlers operate retail and wholesale routes extending into Michigan. Thus, milk produced for sale

in these four cities is in the course of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk and its products.

The Current Orders have been in effect since 1943. Previous to this date a joint State and Federal order was in effect in La Porte County and St. Joseph County was under State regulation. Producers testified that these orders have "stabilized" the market for milk. The evidence also showed that there is a continued need for an order in these markets to prevent the chaotic market conditions which prevailed previous to regulation and to assure an adequate supply of pure and wholesome milk for these cities.

(b) The definition of a "producer" should include dairy farmers who meet, in the production of milk, the city health ordinance inspection requirements of the cities included in the marketing area and whose milk is received at an approved plant.

A definition of a producer is necessary to designate what milk is to be priced under the order. Dairy farmers supplying market milk for South Bend, Mishawaka, La Porte and Michigan City must conform to very similar health requirements. Under the act, one of the primary purposes of regulation is to assure an adequate supply of pure and wholesome milk in the marketing area. The term producer should be restricted to those farmers who produce milk which is eligible for sale as Class I and Class II milk under these ordinances.

It is contemplated that the proposed definition will include the same dairy farmers as producers as are now included under the Current Orders except so-called "degraded" producers. Degraded producers are dairy farmers who temporarily lose their approved production status. Milk produced by such farmers is not eligible for Class I and Class II uses as Grade A products under current ordinance requirements and therefore, should not be treated as producer milk.

(c) The definition of a "handler" should include a person operating an approved plant and a cooperative association with respect to milk handled for its account.

Producers and handlers proposed, in addition to persons operating approved plants, the inclusion of operators of manufacturing plants who purchase unapproved milk from dairy farmers for the manufacture of dairy products and also distribute some of their receipts as fluid milk in the marketing area as defined in Current Order No. 67. Producers would designate such persons as handlers for reporting only, while handlers proposed that such persons would be subject to all provisions of the order.

A definition of a handler is necessary in order to specify what type of processors or distributors are to be subject to regulation. Only operators of plants approved by the health authorities of the municipalities in the marketing area may process and distribute in the marketing area Class I and Class II milk.

The recommended change in the marketing area eliminates the problem of sales of unapproved milk by non-handlers within the current marketing area

who are not subject to regulation. Furthermore, the evidence indicated that milk received at such plants is of manufacturing quality similar to milk received at other nearby manufacturing plants in Indiana and Michigan. The evidence failed to show why such milk should be priced under the order the same as milk meeting ordinance requirements. The inclusion of such plants, with a large proportion of their business devoted to manufacturing or the lower priced classes of utilization, would result in substantial money withdrawals by them from the pool. No justification was shown for pricing such milk under the order and reducing returns to producers of inspected milk.

Handlers contended that the sale just outside the city limits of South Bend and Mishawaka of unapproved milk not subject to regulation resulted in unfair competition. It was alleged that the unfair competition existed because handlers under the order were required to pay into the pool the difference between the Class I and the Class IV price on all other source milk received. Actually handlers purchased little other source milk. Emergency milk was purchased to supplement producer milk, and under the Current Orders no such payment is required on emergency milk. Under the recommended allocation and pricing provisions, payments into the pool on other source milk which includes emergency milk have been eliminated. Under such circumstances handlers failed to show that the alleged unfair competition resulted from a significant cost advantage in the purchase of milk held by the processors of unapproved milk. As pointed out in the handlers' brief, an unapproved handler in February, 1946, paid his dairy farmers 23 cents per hundredweight less than the Class I price for approved milk under the order. Testimony also showed that a handler who sold unapproved milk in the territory paid \$5.00 per hundredweight during January, and February, 1947, and \$4.50 in March. During these months the Class I price under the order was \$4.765, \$4.583, and \$4.458, respectively. Also no evidence was presented to show that handlers have attempted to compete with the lower retail and wholesale prices of uninspected milk through store differentials which normally prevail in most fluid milk markets.

The evidence did not justify the inclusion of such unapproved plants for reporting purposes only. Therefore, the definition of a handler should include an operator of an approved plant, and a cooperative association with respect to producer milk diverted to unapproved plants or milk caused to be delivered to another handler for the account of such association. The inclusion of a cooperative association as a handler is necessary to place responsibility upon the association for the payment of producers for such milk and equalization with the pool.

(d) An "approved plant" should be defined as a milk plant which is approved for the handling and distribution of fluid milk by the health authorities of any of the cities included in the marketing area and from which a route is operated wholly or partially within the marketing area.

Handlers contended that an approved plant should also include plants approved by the Indiana State Board of Health or the Michigan State Board of Health. The evidence presented at the hearing showed that all plants meeting approval of the latter agencies and from which milk was sold in the marketing area, as defined in the Current Orders, were chiefly manufacturing plants. As previously pointed out, the scope of the regulation should be limited to "producer milk" and to handlers meeting ordinance requirements of the cities included in the marketing area, and should not be extended to the milk of unapproved dairy farmers and persons operating manufacturing plants. (See conclusions (1) (a), (b) and (c).)

(e) The term "other source milk" should include all skim milk and butterfat received from sources other than from producer milk but excludes nonfluid milk products received and disposed of in the same form.

Under the Current Orders a distinction is made between "emergency milk" and "milk from other sources", the former requiring a temporary permit from the responsible health authority. Under prevailing conditions, it has been the practice of the health authorities to permit handlers to bring in emergency milk whenever needed. Since it is recommended that milk received from sources other than producers be subject to identical classification and allocation procedures, no useful purpose would be served by separate definitions for "other source milk" and "emergency milk".

Handlers not subject to the pricing provisions of the order do not receive milk from producers, therefore milk transferred from them to handlers who receive milk from producers must be other source milk.

Nonfluid manufactured milk products disposed of in the same form as received are excluded from other source milk because such products would be classified in the lower priced classes and then deducted therefrom through the allocation procedure.

The recommended definition for other source milk is substantially the same as the definition proposed by handlers for "supplemental milk" and the definition proposed by producers for "milk from other sources".

Handlers and producers proposed a "degraded" milk definition for milk received from producers who temporarily lose their status of full approval by the health department. Under the Current Orders such producers receive the same uniform price as regular approved producers. In connection with the proposed definition of degraded milk it was proposed that such producers be paid the uniform price less 20 cents per hundredweight. This treatment of degraded milk was supported on the basis that often producers lose their approved status for a minor infraction of the health ordinance. The question of degrees of compliance, and enforcement of local health ordinances is outside the scope of the order. It was stated that some incentive over the manufacturing price was necessary to keep such producers from leaving the market permanently.

The connotation of degraded milk as other source milk and the consequent exclusion of such milk from the pricing provisions of the order will offer an even greater incentive for producers of degraded milk to reestablish themselves as approved producers. The use of degraded milk for fluid purposes under a special label similar or identical to the provision made by the health authorities for the handling of emergency milk prevailed only for a short period during the war. Therefore, there appears to be no reason at this time why milk which is not eligible for "Grade A" fluid use should receive preferential treatment at the expense of regular approved producers.

(f) The definition of a cooperative association is recommended to reduce the language in various provisions of the order where such term is used. There are two associations of producers supplying milk to the South Bend-La Porte marketing area. They are the Pure Milk Association and the La Porte County Milk Producers Association, Inc. These associations testified that they are organized and function in accordance with provisions of the Capper-Volstead Act. Both organizations have been actively engaged in the marketing of milk for their members.

(g) Definition of a "route" is recommended because such definition is useful in defining other terms. "Delivery period" has been defined as the calendar month or the total portion thereof in which the order is in effect. The customary period for accounting and settlement in these markets is one month, and one month has been used as the delivery period under the Current Orders. "Producer milk" has been defined to shorten the language in the various sections of the order. The definitions of the terms "act," "Secretary," "Department of Agriculture," and "person," are standards terms and are common to market orders. Their inclusion is necessary for simplicity and brevity in constructing other terms and provisions of the order.

(2) It is concluded that a section should be included in the order covering the power and duties of the market administrator.

The Agricultural Marketing Agreement Act of 1937, provides for the selection by the Secretary of an agency, designated as a market administrator, to administer orders issued under the act.

The market administrator's duties include the verification of all reports and payments of handlers through inspection of their records or the records of other handlers or persons upon which the classification of milk depends. Handlers pointed out in their brief that inspection of records by the market administrator should be limited to "pertinent" records. The market administrator is required to verify only the handlers' reports, his powers do not extend beyond examination of records which are pertinent to such verification.

Under other provisions of the order the market administrator must determine the class price for skim milk and butterfat, producers' uniform price, and the butterfat differential to producers. This information is needed by producers and handlers in the market and is of in-

terest to the public. The provision for the release of class prices on the 7th day of the month following the delivery period is reasonable in view of the time required to secure prices upon which class prices are determined. Following receipt of reports from handlers several days are required for the market administrator to make the pool computation; and thus the 14th day following the delivery period is recommended as a reasonable date for the market administrator to report the uniform price to handlers and producers.

The market administrator has access to valuable statistical information for the market. Many of these statistics are compiled through the regular activities of his office. The release of such statistics and information as do not reveal confidential information is of assistance to handlers, producers, and to the public, in acquainting them with general market conditions and in assisting the promotion of orderly marketing of milk.

(3) It is concluded that a section covering the requirements for reporting the receipts and utilization of milk by handlers and the verification of handlers' accounts by the market administrator should be included in the order.

The proper classification and pricing of producer milk for each delivery period depends upon the keeping of accurate accounts and records by handlers and upon verification of these reports by the market administrator. To carry out the intent of the act and the provisions of an order issued thereunder, the market administrator is charged with the responsibility of verifying the reports of handlers by auditing records necessary for such verification. An auditing program is a protection to producers by assuring them that their milk is paid for in accordance with the terms of the order. An auditing program is also a protection to the handlers as an assurance that equity exists among handlers in the cost of milk in accordance with its use.

It was contended that a limit should be placed on the time handlers must keep accounts and records. A hearing on such a proposal to be made applicable to all milk orders has since been held. To promote uniformity, such a provision should result from the latter hearing, and therefore is not recommended at this time.

In order for the market administrator to classify and price producer milk, it is necessary that each handler report his receipts of skim milk and butterfat from all sources. Exception is made for nonfluid milk products received and disposed of in the same form. In order that producers may be paid in advance of verification (which determines the final classification of milk and requires time), each handler must report the receipts and utilization of all milk as promptly as possible after the end of the delivery period so that a uniform price may be determined and settlement made with producers monthly. To promote uniformity in reporting, it is necessary for the market administrator to prescribe the forms on which such receipts and utilization are reported by handlers. Producer-handlers are not required to report except at the request of the market administrator. There is

no point in pricing milk for a producer-handler since by definition the only producer milk received in his plant is from his own production or milk transferred by a handler to him. Such milk as originates from producers is therefore subject to pricing through regulation of the transferring handler. For statistical purposes it may be desirable for the market administrator to secure reports from producer-handlers. Reports may be necessary also to establish their status as producer-handlers.

The only method of verifying the receipts and utilization of producer milk is by inspecting the handlers accounts and records. For a complete audit it is necessary to verify total receipts of skim milk and butterfat from all sources, to verify the utilization of such receipts, the payments therefor, and inspect any other related accounts or records.

(4) A section should be included in the order to provide for the classification of skim milk and butterfat received by a handler in producer milk, in other source milk and from other handlers.

(a) The principle of use classification whereby products of similar characteristics and use values are grouped together in defined classes has been employed under the Current Orders as well as in many other fluid milk markets throughout the country. Skim milk and butterfat received in producer milk, in other source milk, and from other handlers are intermingled in handlers' plants; therefore it is necessary to classify all such receipts in order to determine the classification of producer milk.

Under the Current Orders, milk is classified on a volume basis in Class I but on a butterfat basis in the other classes. Reconciliation of sales to receipts is made on a milk equivalent basis with any necessary volume adjustments made in Class IV milk. Under this method of reconciliation, a minus quantity quite frequently appears in Class IV milk. This results in confusion and strong objection on the part of handlers.

It is recommended that the "milk equivalent basis" of classification and pricing be replaced by a skim milk and butterfat system of classification and pricing. This change will assure equity among handlers in the cost of milk. A skim milk and butterfat system of classification will show more clearly the utilization of skim milk and butterfat in each class by each handler and for the market as a whole. It also facilitates cost accounting.

(b) The classification of skim milk and butterfat should be made on the basis of four classes of milk.

(1) Class I milk should include all skim milk and butterfat disposed of in fluid form as milk, skim milk, flavored milk, flavored milk drink, and buttermilk (with exceptions for certain bulk milk and cream and for certain items dumped or disposed of for livestock feed). Under the Current Orders fluid milk and flavored milk drinks are included in Class I milk. The items included in Class I milk must be made or processed from approved milk. They are disposed of in fluid form through the same or similar retail and wholesale channels, and are used principally as a beverage. The

physical characteristics, values, and uses of these items are very similar. In contrast, the items included in Class III and Class IV milk are chiefly manufactured products, all of which may be manufactured from uninspected milk.

Shrinkage on producer milk in excess of 2 percent of such receipts and all skim milk and butterfat not specifically accounted for in the other defined classes should be classified as Class I milk. The classification of excessive shrinkage and unaccounted for milk and as Class I milk is necessary for the proper protection of producers.

(2) Class II milk should include all skim milk and butterfat disposed of as fluid cream, any mixture of milk and cream containing not less than 6 percent butterfat and eggnog.

Under the Current Orders fluid cream is classified as Class II milk. The physical characteristics and use of cream are somewhat different from Class I milk. Fluid cream sold in the marketing area must be derived from approved milk. To establish a breaking point between products characterized as cream or milk, a 6 percent butterfat minimum is used.

(3) Class III milk should be all skim milk and butterfat used to produce any milk product other than those specified as Class I milk, Class II milk, or Class IV milk, and all skim milk and butterfat disposed of in bulk as milk, skim milk, or cream to any manufacturer of candy, soup, or bakery products and used in such products.

Producer milk is used in the manufacture of ice cream, ice cream mix, cottage cheese, evaporated or condensed milk, other manufactured dairy products, soup, candy and bakery products. Approved milk is not required for these uses. Some handlers are engaged in Class III operations. Generally speaking, producer milk finding its way into Class III uses does so because production is in excess of the Class I and Class II requirement. A manufacturing class is necessary to permit the free movement of milk into manufacturing channels without undue losses to handlers, when producer receipts are in excess of market demand for Class I and Class II milk.

(4) Class IV milk should include all skim milk and butterfat used to produce butter, cheese and nonfat dry milk solids; it should include skim milk, buttermilk and flavored milk drink dumped or disposed of as animal feed and plant shrinkage.

The products classified as Class IV milk are commonly considered as the lowest-value uses for milk in manufacturing channels. Occasionally handlers use milk in excess of Class I and Class II requirements for making butter. Under the Current Orders butter is included as a Class IV product. Skim milk and butterfat is also transferred or diverted to manufacturing plants engaged in the churning of butter, cheese-making and dry skim milk operations. During periods of seasonal surplus the facilities for using milk for products classified as Class III may not be adequate for the disposal of all surplus milk; therefore there is need for a Class IV classification. Skim milk, buttermilk and returns of

chocolate milk from routes at times must be disposed of by dumping or for use as livestock feed. Because of low returns to handlers for sale as livestock feed, and the lack of a return for dumpage and shrinkage, these uses should be classified in the lowest-priced class.

(c) Shrinkage on the total receipts of skim milk and butterfat should be prorated between producer milk and other source milk.

Producer milk is the major source of skim milk and butterfat for handlers. Handlers also engaged in the manufacture of products such as ice cream, ice cream mix, or butter may use other source milk. In recent years permits have been issued under the various health ordinances to allow handlers to bring in "emergency milk" for Class I and Class II uses. Under the current orders the total shrinkage experienced by a handler in excess of 3 percent of producer milk receipts is allocated to Class I milk. This may create inequities among handlers if milk other than producer milk must be used by one handler and not by another handler.

In 1946, the average of the monthly percentages of shrinkage was 2.4 percent under Order 67 and 4.0 percent under Order 20. More detailed testimony showed that over 40 percent of the handlers under Order 67 showed shrinkage losses of not more than 2 percent of total receipts. These figures reflect more than butterfat lost in processing. They include some butterfat not accounted for as Class I, Class II, Class III, or Class IV milk.

It is concluded that shrinkage should be prorated between receipts of producer milk and other source milk and the maximum shrinkage allowance on producer receipts in Class IV milk should be two percent of such receipts. Shrinkage in excess of 2 percent on producer milk will be Class I milk. To increase the shrinkage allowance in Class IV milk in excess of 2 percent, as favored by handlers, would enhance the possibilities of not accounting for all milk and would increase the possibilities for inequities to arise among handlers.

(d) Provisions should be included in the order covering the responsibility of handlers in the classification, transfer, and diversion of milk.

The only practical means of administering the regulation and assigning responsibility of correct classification is to consider all skim milk and butterfat as Class I milk until the handler who first receives such skim milk and butterfat proves to the market administrator that it should be classified otherwise.

In the case of transfers and diversions to handlers, except to a producer handler, provision is made for the classification of such milk on the basis of signed statements provided that the buyer actually has used skim milk and butterfat in the reported use. In the case where other source milk is received by the transferee-handler, the other source milk must be eliminated through the allocation provision before the final classification of the transferred milk can be ascertained. This is necessary for the protection and proper classification of producer milk.

Skim milk and butterfat transferred to an unapproved plant may be classified on the basis of a signed statement by the buyer and seller provided the buyer has actually used an equivalent amount of skim milk and butterfat derived by him from milk or cream in the class agreed upon. The claimed utilization of milk should be subject to verification by the market administrator's examination of the buyer's records. Verification of the classification of milk is of equal importance to producers and handlers whether milk is transferred to unapproved plants or to approved plants.

(e) In the allocation of skim milk and butterfat, producer milk should not be displaced by other source milk.

Under the provisions of the Current Orders, emergency milk is prorated to the various classes in accordance with the volume of milk used in each class. Milk from other sources is subtracted from the classes in which it is used, and the handler must pay into the pool the difference between the value of such milk at the Class IV price and the class price in which it is used.

The recommended definition of other source milk includes emergency milk. To determine the utilization of producer milk by each handler, other source milk is subtracted from the volume in the lowest-price available class, and transfers from other handlers are then subtracted. Since approved milk is produced for Class I and Class II uses this sequence in the allocation is necessary to prevent other source milk from displacing producer milk in such uses.

(5) (a) Class prices should be based on prices paid for milk used for manufacturing purposes.

Historically, prices paid for milk used for fluid purposes have been closely related to prices paid for milk used for manufacturing purposes. Such relationships are quite pronounced in areas where milk is produced in relatively large quantities and where manufacturing plants serve as alternative outlets for milk produced in these areas. Production and marketing of milk for each type of outlet is subject to many of the same economic factors. Since the market for most manufactured products is country-wide, prices of manufactured dairy products reflect to a large extent changes in general economic conditions affecting the supply of and demand for milk. For these reasons fluid milk markets have long used butter and cheese prices or the prices paid by condenseries as a basis for establishing fluid milk prices. Differentials over these basic or manufacturing prices have been used to establish fluid milk prices. These differentials are needed to cover the cost of meeting quality requirements in the production of market milk, and to furnish the necessary incentive to get such milk produced.

Under the Current Orders, Class I and Class II milk prices are determined by stated differentials over basic or manufacturing prices. Under Order No. 20, the average price paid by 21 condenseries and manufacturing plants (3 local and the so-called 18 condenseries) is used as the basic price. Under Order 67, the basic price is the highest of the follow-

ing: (i) the average price paid by 3 local manufacturing plants, (ii) the price resulting from a butter-nonfat dry milk solids formula, or (iii) the price resulting from a butter-cheese formula.

It is concluded that the basic price to be used in establishing Class I and Class II milk prices should be the paying price of the so-called 18 condenseries. The butter-cheese formula and the butter-nonfat dry milk solids formula should be used as alternative basic price formulas.

Similar basic price formulas are contained in the orders issued pursuant to the act for the Chicago and Suburban Chicago marketing areas. Because of the intermingling of producers supplying these markets with producers supplying the South Bend-La Porte marketing area, it is of primary importance that the same or similar basis for determining class prices be established in each market, and that changes in prices for these various markets take place simultaneously.

Testimony was given favoring the use of the price paid by local manufacturing plants as the basic price. Over a period of time, the paying price of these local plants is closely related to the price paid by the 18 condenseries. However adoption of a wider base as represented by the 18 condenseries would tend to prevent undue discrepancies caused by short-time differences in prices paid by the two groups.

Provision should be made to use the basic price for the month next preceding the delivery period for establishing the Class I and Class II milk prices. Producers and handlers will know the Class I and Class II milk prices early in the delivery period and thus more orderly marketing will be encouraged. Provision should be made also that the basic formula price effective for July, should not be less than that for the preceding month of June and that the basic price for December should not be higher than that for the preceding month of November. This should assist in preserving the proper seasonal trend of basic prices. These provisions should assist in maintaining proper relationship between prices under this order and the closely associated Chicago markets, for which similar recommendations have been made.

(b) The Class III milk price should be the average of the basic price paid by the 3 local manufacturing plants named in current Order 67.

Surplus milk is moved from the South Bend-La Porte marketing area to these manufacturing plants. In some instances, particularly during the flush milk production period, milk is diverted directly from producers' farms to manufacturing plants without being physically received in a handler's plant. The cooperative association supplying the South Bend and Mishawaka markets has taken an active part in arranging for the movement of excess milk to manufacturing plants. Therefore it appears that the most equitable price for milk classified as Class III is the local manufacturing price. If the price for milk made into butter and nonfat dry milk solids is greater than the price paid by

the local manufacturing plants, producers should receive a price equivalent to that resulting from such formula. This should be accomplished by providing that the Class III price per hundredweight of milk should not be less than the Class IV price.

(c) The Class IV milk price should be the price resulting from the butter-nonfat dry milk solids formula.

This recommended formula will result in a price at substantially the same level as under the Current Orders. Under Current Order 67, the total manufacturing allowance in the Class IV formula is included in the make allowance on nonfat dry milk solids. Under Order 20, no make allowance as such is specified. The net value of skim milk and butterfat contained in the milk is determined by adding 30 percent of the value of butter. While these methods of determining the Class IV price appeared to be satisfactory under the milk equivalent basis of classification, they could not be used under a system of pricing skim milk and butterfat separately because of the resulting inequities among handlers. Butter and nonfat dry milk solids prices reflect the value of milk at the commonly accepted lowest-valued uses. The chief use for butterfat in Class IV milk in the marketing area is the manufacture of butter. In order to provide a more equitable method of establishing the Class IV price, a make allowance of 5 cents per pound should be allowed on nonfat dry milk solids and 2 cents per pound on butter. The testimony indicated that under prevailing conditions these make allowances are considered reasonable.

(d) A provision for Class V milk should not be included in the order. Class V milk, as proposed, would cover milk received by a handler in excess of his "actual and complete requirements". If after twenty-four hours' notice prior to its receipt by the handler, the Pure Milk Association failed to accept delivery or the market administrator failed to locate a purchaser, such milk would be priced at 20 cents less than the net "actual" price received by the handler, f. o. b. his plant. The principal supporting reason offered for the inclusion of Class V milk was that handlers suffered losses when handling surplus milk. No conclusive evidence was presented to show the extent of such losses, and furthermore, it was indicated that at times during the past year surplus milk was actually sold by handlers at a profit. Under the proposal, the Class V price would be 20 cents less per hundredweight than whatever price the handler and any buyer of such milk might agree upon. Such a provision could stimulate the development of a constant surplus in the hands of some handlers at the expense of producers and other handlers. Class V would reduce the incentive for handlers with an excessive amount of milk to transfer milk or producers to other handlers who might need milk for Class I or Class II uses. No economic justification was shown for guaranteeing handlers against monetary loss on all surplus milk. In addition to seasonal surplus, excess milk results from the 6-day system of delivery or because handlers

are interested in keeping producers the year round to meet shortages during the fall months. In making this decision, they must consider the possibility of having losses during certain periods and showing profits in others. Emergency milk supplies were brought into the current marketing areas during every month of 1946, except one and in recent months. The amount of milk used in manufacturing, namely Class III and Class IV, has been a negligible percentage of the quantity of milk received from producers. Furthermore the present Class IV milk definition adequately covers those manufacturing uses which are generally considered as the lowest-valued of all. For these reasons, there would seem to be no point in including a definition of Class V milk and the pricing thereof in the order.

(e) The price differentials above the basic price for Class I and Class II milk should be established to provide for a pronounced seasonal variation and for an increase in the uniform price to producers.

The seasonal pattern of production is significantly different than is the demand for Class I and Class II milk. In the St. Joseph County area, the average daily production per producer in 1946, was 52 percent greater during May, the month of peak production, than during November, the month of low production. For the La Porte marketing area, the variation was 63 percent. In 1944, the first full year under Federal regulation, the seasonal variation production was about 45 percent in both areas. In contrast, the market demand for Class I and Class II milk has been relatively uniform throughout the year. For example, in the St. Joseph area, daily utilization of Class I milk was only 10 percent higher during May than during November. During the fall months of 1944, through 1946, producer receipts of milk in each area were not adequate to meet Class I and Class II milk requirements. Emergency milk was brought in by handlers because of deficiencies in regular supplies of producer milk.

Testimony submitted by producers indicated that the seasonal variation in production has increased substantially in recent years. It was shown that under the so-called "Base and surplus plan" which was terminated in 1940, production had been maintained on a relatively uniform basis. Although the influence of this plan extended beyond its termination, seasonal variation in production increased reaching a record high in 1946.

In general, a wide seasonal variation in production creates the problem of surpluses in the spring months and shortages in the fall months. Unit marketing costs tend to be lower with uniform milk production than with a wide seasonal variation in production. The increase in seasonal variation in milk production during recent years was attributed to the small variation in prices during the war years. A relatively high level of prices such as now prevails compared with a lower level requires a wider seasonal variation in prices as an incentive to producers to even out production.

Handlers objected to seasonal pricing chiefly on the basis that such a plan would increase their costs. Seasonal pricing in itself does not increase handlers' costs since seasonal pricing can be accomplished without increasing the average annual cost of milk over basic prices. An increase in the average annual differential over basic prices is recommended on the basis of milk supply and economic conditions. If seasonal pricing were not recommended, the price differentials would not have been lower than the average level recommended herein.

During most months of the year, handlers do not receive adequate supplies of milk from producers to meet their requirements. During every month since January, 1944, except one, milk from sources other than producers and handlers were obtained by handlers to supplement producer receipts. Substantial quantities of this emergency milk were used as Class I milk. No significant change has taken place in the number of producers from 1944 to 1947. Adverse weather and crop conditions could easily place these markets in a serious position of milk shortages during the fall months. Milk normally moving into the Chicago and Suburban Chicago markets, which in the past has been a source of emergency supply for some handlers is limited since these markets too have been particularly short of milk during recent years.

Practically all costs incurred by producers in the production of milk such as feed, supplies, labor, and equipment have increased during the past year. Prevailing prices for hogs, beef cattle, and other alternative farm enterprises open to most producers are at relatively high levels.

In establishing the class differentials, consideration should also be given to the need for maintaining a proper alignment of class prices among the South Bend-La Porte marketing area, and the Chicago and Suburban Chicago marketing areas.

As previously indicated, producers supplying these markets are intermingled. These producers are really located in the same milkshed. It is therefore important that any action taken with respect to prices in all three orders be coordinated. Divergent action could very easily disrupt the sources of supplies of many handlers under these orders. Similar seasonal differentials as set forth below have been recommended for the Chicago and the Suburban Chicago marketing areas.

The evidence presented by both producers and handlers showed that the Class I and Class II differentials should be established on an equal level. If Class II milk is to contribute to the pool approximately the same relative value as under the Current Orders, it is necessary to apply a price to that portion of the skim milk and butterfat used in Class II milk equivalent to the Class I price. Under the milk equivalent basis of pooling in the Current Orders, the Class II price is applicable to a much larger volume of milk than under the recommended system of classifying skim milk and butterfat separately. A comparison of the total pool value of milk for past representative delivery periods indicated that the cost of milk to a handler would

have been approximately the same under both systems of pooling and pricing, and any differences depend on the utilization of skim milk derived from milk in the production of cream.

Class differentials above the basic or manufacturing level of milk prices, in addition to meeting the costs of stricter sanitary requirements of inspected milk should reflect also the competitive and other economic conditions affecting the supply of and demand for milk in the marketing area. The Class I and Class II price differentials over the basic formula price as set forth below together with the Class III and Class IV prices will result in such prices as will reflect the price of feeds and available supplies of feeds and other economic conditions which affect market supply and demand for milk or its products in the marketing area, insure a sufficient quantity of pure and wholesome milk, and be in the public interest. Class I and Class II price differentials should be as follows:

[Amount per hundredweight]

Period	Class I	Class II
May and June	\$0.50	\$0.50
August, September, October, and November	.90	.90
All other months	.70	.70

The above schedule of prices substantially increases the seasonal variation in price differentials and may be expected to establish a better relationship between the supply of and demand for milk. It establishes larger and more definite incentives for producers to shift some of their milk production from spring to fall. It may influence the seasonal demand if these differentials are reflected in consumer prices. It may also be expected that the future development of new supplies will be somewhat responsive to the seasonal aspects of price and result in a more even production for the market than now prevails.

It is estimated that the uniform price resulting from these increased price differentials for Class I and Class II milk, and other recommended changes will average between 5 and 10 cents per hundredweight more than that resulting from the provisions of the Current Orders.

(f) Prices for skim milk and butterfat should be determined for each class of milk.

Two methods of determining the pool value of milk in each class were considered at the hearing. One would adopt the use of a butterfat differential for each class of milk. Opposition was expressed to this method because with a given price the portion of such price assigned to skim milk would be a residual value. Changes in the price of butterfat would result in an opposite change in the price of skim milk. Skim milk prices could be affected also by seasonal variation in class differentials while butterfat prices remain constant.

The other method would determine the pool value of milk by a separate pricing of skim milk and butterfat. Under this method the price of skim milk and butterfat would be determined from the per

hundredweight price of milk in each class by applying a percentage breakdown. This method eliminates many of the objections raised to the butterfat differential method as well as objections raised to the method employed in the Current Orders. As previously indicated, the classification and pricing of skim milk and butterfat separately would provide also greater equity among handlers and be of benefit in milk and milk product cost accounting.

Under the current orders for the 9-month period following June 1946 when dairy products were free from price controls, the average relationship of the value of skim milk and butterfat in Class I milk to the 3.5 percent price of milk in such class was approximately 30 and 70 percent respectively. Handlers supported a breakdown of the class prices to skim milk and butterfat of 4 percent milk on the basis of 28 percent allotted to skim milk and 72 percent to butterfat. On a 3.5 percent butterfat content milk basis, the percentage breakdown is equivalent to a 30-70 ratio. It is concluded that the 30-70 relationship should be adopted. A lower percentage for skim milk would result in an unreasonably low skim milk price in Class I milk. In establishing the 70 percent figure for butterfat, consideration was also given to the historical relationship between the price of butterfat in Class I and Class II milk under the proposed methods of establishing these prices and the open market price of cream. Over a period of years a 30-70 breakdown would have resulted in a value for butterfat in 3.5 percent milk when expressed on a 40 percent cream basis, equivalent to the open market price of cream in Eastern markets less a reasonable handling and transportation allowance. Since it is concluded that the value of skim milk in 100 pounds of 3.5 percent milk is equal to 30 percent of the respective per hundredweight class prices of milk, the price per hundredweight of skim milk will be .311 times the respective class prices. (.30 divided by .965) The per hundredweight price of butterfat is equal to 20 times the per hundredweight price of 3.5 percent milk. (.70 divided by .035)

The breakdown of the Class I and Class II differentials recommended above to a skim milk and butterfat price basis results in the following differentials for skim milk and butterfat in Class I milk and Class II milk:

	Skim milk			Butterfat		
	May through June	August through November	All other months	May through June	August through November	All other months
Class I and Class II milk	\$0.156	\$0.280	\$0.218	\$10.00	\$18.00	\$14.00

Handlers emphasized the importance of promoting some stability in the relationship between the price of butterfat and the price of skim milk in Class I and Class II milk over a period of time. By breaking down the basic price and the Class I and Class II differentials for milk

by a constant percentage relationship the desired stability is achieved. In the case of Class III and Class IV milk, however, it is important that the price of skim milk and butterfat be maintained in line with their current values for manufacturing uses. Since the price of skim milk and of butterfat in Class IV milk is determined directly from the price of nonfat dry milk solids and from butter, it is concluded that the Class III price for milk should be broken down in accordance with the relationship of the value contributed to the Class IV price by nonfat dry milk solids and by butter. By following these methods, any changes in either the value of skim milk or butterfat in the basic manufacturing uses will be reflected directly in the price of skim milk and butterfat in Class III and Class IV milk.

(g) Handlers proposed an even-production incentive plan through a "take-out and pay-back" system of establishing uniform prices on a seasonal basis (sometimes known as the Louisville plan). Producers' testimony was in opposition to this plan. The successful operation of such a system necessitates widespread producer approval and cooperation. For this reason this plan is not feasible for the South Bend-La Porte marketing area at this time. Any of the objectives of the plan outlined by handlers should be accomplished by the establishment of class prices on a seasonal basis.

(h) Prices for milk sold outside the marketing area should be the same as those for milk sold in the marketing area.

It was proposed that the price to be paid by handlers for milk disposed of outside of the marketing area should be "the price as ascertained by the market administrator, which is being paid for milk of equivalent use in the market where such milk is disposed of."

Milk produced for sale in the marketing area is sold also in several other areas. The South Bend-La Porte marketing area does not have excessive supplies of milk, in fact a shortage of milk for the sales area exists. Under such conditions, milk sold in areas outside the marketing area should return to producers at least the price prevailing in the marketing area.

Moreover prices paid by individual distributors and the quality of milk sold by them within a single outside market often vary greatly. The standards and methods by which the market administrator would ascertain the price being paid in the outside market for milk of equivalent use were not outlined. From the administrative viewpoint, it is considered undesirable and impracticable for the market administrator to determine outside market price levels in such circumstances.

(6) (a) A provision should be included to exempt handlers from the provisions of this order who are subject to regulation under another order issued pursuant to the act.

Class I and Class II milk is disposed of in the South Bend-La Porte marketing area which originates in the Chicago or the Suburban Chicago market. Such milk is subject to regulation under Order 41 or Order 69. Without a provision in

this order, it is possible that such milk would be subject to regulation under more than one order. Therefore, if milk which is distributed on a route as Class I and Class II milk in the marketing area and the persons making such disposition are subject to regulation under another order issued pursuant to the act, such milk should be exempt from the provisions of this order. However, provisions should be made for reports from persons making such dispositions at such times and of such nature as may be required by the market administrator.

(b) The producer milk diverted by a handler to an approved plant or to a plant not an approved plant should be considered as received by the handler for whose account such milk was diverted. This provision is necessary to clarify the meaning of the term "received" as used in the order. A handler for whose account milk is diverted should be made responsible for accounting and for payment of such milk.

(c) Producer-handlers should be excluded from the classification and pricing provisions of the order because no useful purpose would be served by classifying their milk and requiring them to account to themselves for milk utilized. Producer-handlers should not be charged administrative and marketing service assessments because it is not necessary for the market administrator to perform such services for producer-handlers.

(7) The determining and announcement of the uniform prices to be paid producers should be made on the basis of 3.5 percent butterfat content milk.

Under Current Order 67 the uniform price is announced on a 4 percent basis, and under Current Order 20, on a 3.8 percent basis. The basis of announcing the uniform price will not affect the handlers' cost of milk. The order requires a handler to pay for skim milk and butterfat at class prices. Therefore, handlers' costs of milk are dependent solely on the class prices of skim milk and butterfat, whereas the uniform price to producers is merely a method of distributing this money to producers. The evidence indicated that the producers would prefer to receive payment for milk at a price announced on a 3.5 percent basis. Producers' satisfaction with the method of announcing the basis of their payments for milk tends to produce more orderly marketing conditions. Moreover, producer prices are announced on the recommended basis in the nearby Chicago markets as well as many other markets throughout the country. Statistical comparisons of producer prices on the South Bend-LaPorte market and other markets would be facilitated if prices were announced on a 3.5 percent basis.

Current Order 67 provides for a market-wide pool while Current Order 20 provides for an individual-handler pool. All of the evidence presented was in favor of a market-wide pool. There was no proposal for an individual-handler pool.

(8) Payments by handlers for milk received from producers must be made at the uniform price not later than the 18th day following the delivery period.

Payment for milk caused to be delivered to a handler for the account of a cooperative association must be made to the cooperative association at the class prices.

The butterfat differential to producers under the current orders is determined by adding 20 percent to the price of 92-score butter in the Chicago market and dividing by 10. No evidence was presented to change the basis of determination.

Producers suggested that a provision should be incorporated in the order which would provide for "token" payments on the first of each month. The evidence indicated that handlers follow the practice of advancing money to producers upon request. There is no need for such provision at this time. The date for payment to producers on the 18th of each month follows a logical sequence in relation to the dates reports are required from handlers and the date for the announcement of a uniform price.

(9) The maximum assessment for administrative expenses to be paid by each handler should be 4 cents per hundredweight of milk.

The administrative assessment should be made on producer milk and on other source milk received by handlers to provide funds for administration of the order. The market administrator must verify the receipts and utilization of other source milk in the same manner as producer milk. Milk which is subject to regulation under another order and is received by a person who operates an approved plant is other source milk under the proposed order. Such milk is subject to an administrative assessment under the first mentioned order. Because of the close proximity of the Chicago and Suburban Chicago markets—the source of such other source milk—duplicate verification of such milk receipts and utilization is unnecessary, and therefore milk subject to administrative expense under these orders should not be subject to the administrative assessment under this order.

The Current Orders provide for a 4-cent maximum assessment; however 3 cents per hundredweight is being charged currently. The evidence indicated that the 4-cent maximum should be maintained because possible increased cost of operation may make it necessary to increase the current 3-cent rate. Such assessment should be paid to the market administrator on or before the 16th day after the end of each delivery period. This is the same date as that upon which payments are required from handlers to the producer-settlement fund and for marketing service deductions; thus handlers may complete settlement with the market administrator for all these accounts at one time.

(10) Deductions should be made from payments to producers for financing marketing services performed for such producers.

The act provides for deductions to be made from payments to producers to finance the expense of marketing service rendered to producers by the market administrator or by a cooperative association.

The maximum rate under the Current Orders is 3 cents per hundredweight on milk of producers who do not receive marketing services from a cooperative association. This rate should be continued in order to assure sufficient funds for the proper rendering of services to producers.

In the case of producer-members of a cooperative association rendering such service for its producer-members, it is recommended that a deduction equal to an amount agreed upon by the producer-member and the cooperative association be made.

No assessment is made on a handler's own production since there is no purpose served in checking the weights and tests of the milk delivered to his own plant. Any cost of verification by the market administrator necessary to prove receipts and utilization of such milk should be paid from the administrative assessment account.

Such amounts should be paid to the market administrator or to the cooperative association, respectively, on or before the 16th day after the end of each delivery period. This date is also the one for payment by a handler to the market administrator of amounts due the producer settlement fund and for the administrative assessment.

(11) Provisions requiring interest on overdue accounts should be included in the order.

The order should provide for the notification of handlers by the market administrator of errors disclosed by audit of handler's accounts, for the payment of moneys due as a result of such errors, and for interest payments on overdue accounts. Interest will not accrue until the first date of a calendar month next following the due date of such obligations. This provides ample time for making payments before interest will accrue. This provision is in keeping with good business practice. Interest is usually paid for the use of money or capital. The rate of one-half of one percent per month is reasonable and is in line with the legal rate of interest in the State of Indiana.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of the Reliable Dairy Co., Inc., et al., handlers subject to Order 67, and Scholl Dairy Company, et al., handlers subject to Order 20. The briefs contain statements of fact, conclusions, and arguments with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered, along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the proposed findings and conclusions contained herein, such suggested findings and conclusions are denied.

Recommended marketing agreement and order, as amended. The following provisions are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this recommended decision because the regulatory

provisions thereof would be the same as those contained in the order, as amended, and as proposed here to be further amended:

§ 967.1 *Definitions.* (a) "Act" means Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement of 1937, as amended (7 U. S. C. 601 et seq.)

(b) "Secretary" means the Secretary of Agriculture or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the Secretary of Agriculture of the United States.

(c) "Department of Agriculture" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions of the United States Department of Agriculture specified in §§ 967.5 and 967.8.

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "Delivery period" means the calendar month or the total portion thereof during which this order is in effect.

(f) "Cooperative Association" means any cooperative association of producers which the Secretary determines, after application by the association:

(1) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(2) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

(g) "South Bend-La Porte, Indiana, marketing area", hereinafter called the "marketing area" means all territory within the corporate limits of South Bend, Mishawaka, La Porte, and Michigan City, Indiana.

(h) "Approved plant" means a milk plant which is approved by the health authorities of any of the following municipalities: South Bend, Mishawaka, La Porte, or Michigan City, Indiana, for the processing and distribution of fluid milk and from which a route is operated wholly or partially within the marketing area.

(i) "Producer" means any person, except a producer-handler, who produces milk which is received at an approved plant, provided one or more of the health authorities set forth in paragraph (h) of this section has approved or certified the production of such milk for use as Class I milk or Class II milk in the marketing area.

(j) "Producer milk" means milk produced by a producer under the conditions set forth in paragraph (i) of this section.

(k) "Other source milk" means all skim milk and butterfat received in any form, except in a non-fluid milk product disposed of in the same form as received, from sources other than a producer or a handler who receives milk subject to the pricing provisions of this order.

(l) "Route" means a delivery (including a sale at a plant store) of Class I milk to a wholesale or retail stop, other than to a milk processing or distributing plant.

(m) "Handler" means (1) a person who operates an approved plant or (2) a cooperative association with respect to milk: (i) Caused by it to be delivered from a producer's farm to an approved plant for the account of such association or (ii) customarily received as producer milk at an approved plant which is diverted by such association for its account to a plant not an approved plant.

(n) "Producer-handler" means any person who operates an approved plant and whose sole source of supply of skim milk and butterfat is from his own production or from his own production and from an approved plant.

§ 967.2 *Market administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have the following powers with respect to this order:

(1) To administer its terms and provisions;

(2) To receive, investigate, and report to the Secretary complaints of violations.

(3) To make rules and regulations to effectuate its terms and provisions; and

(4) To recommend amendments to the Secretary.

(c) *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this order, including, but not limited to, the following:

(1) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(2) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(3) Obtain in an amount and with surety thereon satisfactory to the Secretary a bond covering each employee who handles funds entrusted to the market administrator;

(4) Pay, out of the funds provided by § 967.9;

(i) The cost of his bond and of the bonds of his employees,

(ii) His own compensation, and

(iii) All other expenses, except those incurred under § 967.10, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(5) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary surrender the same to such other person as the Secretary may designate;

(6) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems

appropriate, the name of any person who within 10 days after the day upon which he is required to perform such acts, has not made (i) reports pursuant to § 967.3 or (ii) payments pursuant to §§ 967.8, 967.9, 967.10, or 967.11;

(7) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(8) Verify all reports and payments of each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(9) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the prices determined for each delivery period as follows:

(i) On or before the 7th day after the end of such delivery period, the minimum class prices for skim milk and butterfat pursuant to § 967.5; and

(ii) On or before the 14th day after the end of such delivery period, the uniform price computed pursuant to § 967.7 and the butterfat differential computed pursuant to § 967.8; and

(10) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

§ 967.3 *Reports, records, and facilities*—(a) *Delivery period reports of receipts and utilization.* On or before the 9th day after the end of each delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) The quantities of butterfat and of skim milk contained in all receipts within such delivery period of (i) producer milk, (ii) skim milk and butterfat in any form from any other handler, and (iii) other source milk; and the sources thereof;

(2) The utilization of all receipts reported under subparagraph (1) of this paragraph; and

(3) Such other information with respect to all receipts and utilization as the market administrator may prescribe.

(b) *Other reports.* (1) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(2) On or before the 25th day after the end of each delivery period each handler shall submit to the market administrator such handler's producer pay roll for the preceding delivery period, which shall show (i) the total pounds of milk received from each producer and the average butterfat test of such milk, (ii) the amount of payment to each producer and cooperative association, and (iii) the nature and amount of any deductions and charges involved in the payments referred to in subdivision (ii) of this subparagraph.

(c) *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business, such accounts and records of his operations and such facilities as are

necessary for the market administrator to verify or to establish the correct data with respect to (1) the receipts and utilization, in whatever form, of all skim milk and butterfat received; (2) the weights, samples, and tests for butterfat and for other content of all skim milk and butterfat handled; (3) payments to producers and cooperative associations; and (4) the pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and each milk product on hand at the beginning and at the end of each delivery period.

§ 976.4 *Classification*—(a) *Skim milk and butterfat to be classified.* All skim milk and butterfat, in any form, received within the delivery period by a handler, in producer milk, in other source milk, and from another handler shall be classified by the market administrator pursuant to the following provisions of this section.

(b) *Classes of utilization.* Subject to the conditions set forth in paragraphs (d) and (e) of this section, the skim milk and butterfat described in paragraph (a) of this section shall be classified by the market administrator on the basis of the following classes:

(1) Class I milk shall be all skim milk and butterfat:

(i) Disposed of in fluid form as milk, skim milk, flavored milk, flavored milk drink, or buttermilk (except as provided in subparagraphs (3) (i) and (4) (ii) of this paragraph); and

(ii) Shrinkage on receipts of producer milk computed pursuant to paragraph (c) of this section which is in excess of 2 percent of such receipts and all skim milk and butterfat not specifically accounted for as an item under subdivision (i) of this subparagraph or Class II milk, Class III milk, or Class IV milk.

(2) Class II milk shall be skim milk and butterfat disposed of as fluid cream (sweet or sour), any mixture of cream and milk (or skim milk), containing not less than 6 percent butterfat, and eggnog.

(3) Class III milk shall be all skim milk and butterfat:

(i) Disposed of in fluid form in bulk as milk, skim milk, buttermilk, or cream to any manufacturer of candy, soup, or bakery products and used in such products.

(ii) Used to produce evaporated or condensed milk, cottage cheese, ice cream, ice cream mix, other than frozen desserts and mixes, storage cream; and

(iii) Used to produce a milk product other than any of those specified in subparagraphs (1) (i), (2), or (4) of this paragraph.

(4) Class IV milk shall be all skim milk and butterfat:

(i) Used to produce butter, cheese (excluding cottage cheese), and nonfat dry milk solids;

(ii) Dumped or disposed of for livestock feed as skim milk, flavored milk, flavored milk drink, or buttermilk;

(iii) In actual plant shrinkage of producer milk computed pursuant to paragraph (c) of this section but not in excess of 2 percent thereof; and

(iv) In actual plant shrinkage of other source milk computed pursuant to paragraph (c) of this section.

(c) *Shrinkage.* The market administrator shall determine the shrinkage of skim milk and butterfat, respectively, in producer milk and in other source milk in the following manner:

(1) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(2) Prorate the total shrinkage of skim milk and butterfat, respectively, computed pursuant to subparagraph (1) of this paragraph between that in producer milk and other source milk.

(d) *Responsibility of handlers and reclassification of milk.* (1) All skim milk and butterfat shall be Class I milk, unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

(2) Any skim milk or butterfat classified (except that transferred to a producer-handler) in one class shall be reclassified if used or reused by such handler or by another handler in another class.

(e) *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(1) As Class I milk, if transferred or diverted in the form of milk and as Class II milk if so disposed of in the form of cream to another handler (except a producer-handler) unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 9th day after the end of the delivery period within which such transaction occurred:

Provided, That skim milk or butterfat so assigned to a particular class shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to paragraph (g) of this section, and any excess of such skim milk or butterfat, respectively, shall be assigned in series beginning with the next lowest-priced available utilization;

(2) As Class I milk if transferred or diverted in the form of milk and as Class II milk if so disposed of in the form of cream to a producer-handler.

(3) As Class I milk if transferred or diverted in the form of milk and as Class II milk if so disposed of in the form of cream to a plant not an approved plant unless, (i) the handler claims another class on the basis of utilization mutually indicated in writing to the market administrator by both the buyer and seller on or before the 9th day after the end of the delivery period within which such transaction occurred, (ii) the buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for the purpose of verification, (iii) such buyer's plant had actually used in the use indicated in such statement not less than an equivalent amount of skim milk and butterfat derived by him from milk or cream: *Provided,* That if upon inspection of his records such buyer's plant had not actually used an equivalent

amount of skim milk and butterfat so derived in such indicated use, the remaining pounds shall be classified on the basis of the next highest priced available use in accordance with the classes set forth in paragraph (b) of this section;

(f) *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and for other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, Class III milk, Class IV milk for such handler.

(g) *Allocations of skim milk and butterfat classified.* The pounds of skim milk and butterfat respectively remaining in each class after the following computations shall be the pounds in each class allocated to producer milk:

(1) Subtract respectively from the pounds of skim milk and butterfat in each class (other than the pounds of plant shrinkage of skim milk and butterfat pursuant to paragraph (b) (4) (iii) of this section) in series beginning with the lowest-priced available use, the pounds of skim milk and butterfat in other source milk;

(2) Subtract respectively from the remaining pounds of skim milk and butterfat in each class the pounds of skim milk and butterfat received from other handlers and assigned to such class pursuant to paragraph (e) of this section; and

(3) Subtract respectively from the remaining pounds of skim milk and butterfat in each class in series beginning with the lowest-priced available use, the pounds by which such pounds of skim milk and butterfat in all classes exceed respectively the pounds of skim milk and butterfat received from producers.

§ 967.5 *Minimum prices*—(a) *Basic formula prices for skim milk and butterfat.* The basic formula prices for skim milk and butterfat shall be determined by the market administrator for each delivery period in the following manner:

(1) Compute the arithmetical average of the basic (or field) prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices are reported to the market administrator or to the Department of Agriculture by the companies listed below:

Present Operator and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mt. Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

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(2) Compute the price per hundredweight as follows:

(i) Multiply by six the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the Department of Agriculture during the delivery period;

(ii) Add an amount equal to 2.4 times the average weekly prevailing price per pound of "Twins" during the delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided*, That if the price of "Twins" is not quoted on the Wisconsin Cheese Exchange the weekly prevailing price per pound of "Cheddars" shall be used; and

(iii) Divide by seven, add 30 percent thereof, and multiply by 3.5.

(3) Compute the price per hundredweight by adding together the plus values resulting under subdivisions (i) and (ii) of this subparagraph.

(i) Subtract 5.0 cents from the arithmetical average of the carlot prices per pound as reported for the delivery period for nonfat dry milk solids (not including that specifically designated animal feed), roller and spray process, f. o. b. Chicago area manufacturing plants, by the Department of Agriculture, multiply by 8.5 and multiply by 0.965, except that if such agency does not publish prices there shall be used for the purpose of this computation the arithmetical average of the carlot prices thereof, delivered at Chicago, Illinois, as published weekly by such agency during the delivery period, and in the latter event the figure "7.0" shall be substituted for "5.0" in the above formula.

(ii) Subtract 2 cents from the arithmetical average of the daily wholesale prices per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, multiply by 1.2, and multiply by 3.5.

(4) Multiply the highest of the prices resulting from subparagraphs (1), (2), and (3) of this paragraph for the next preceding delivery period by 0.311 (which amount shall be known as the basic formula price per hundredweight of skim milk): *Provided*, That such price effective for July shall not be less than that effective for the previous month; and such price effective for December shall not be more than that effective for the previous month.

(5) Multiply the highest of the prices resulting from subparagraphs (1), (2), and (3) of this paragraph for the next preceding delivery period by 20.0 (which amount shall be known as the basic formula price per hundredweight of butterfat): *Provided*, That such price effective for July shall not be less than that effective for the previous month, and such price effective for December shall not be more than that effective for the previous month.

(b) *Class I milk* and Class II milk prices.* The minimum prices per hundredweight to be paid by each handler for skim milk and butterfat in producer milk received and classified as Class I milk and Class II milk shall be determined by adding the following amounts to the respective basic formula prices for the delivery period:

Delivery period	Skim milk— class I and class II milk	Butterfat— class I and class II milk
May and June	\$0.156	\$10.00
August through November	.280	18.00
All other months	.218	14.00

(c) *Class III milk prices.* The minimum prices per hundredweight, to be paid by each handler for skim milk and butterfat in producer milk received and classified as Class III milk, shall be determined as follows:

(1) Compute the arithmetical average of the basic (or field) prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or the Department of Agriculture by the companies listed below:

Present Operator and Location

Goshen Milk Condensing Co., Goshen, Ind.
Litchfield Creamery Co., Warsaw, Ind.
New Paris Creamery Co., New Paris, Ind.

Provided, That the price so determined shall not be less than the per hundredweight price of milk determined pursuant to paragraph (a) (3) of this section.

(2) Compute the percentage that the value of skim milk and butterfat, respectively, as determined pursuant to paragraph (a) (3) (i) and (a) (3) (ii) of this section, is of their sum.

(3) Multiply the price of milk determined pursuant to subparagraph (1) of this paragraph by the percentages determined for skim milk and butterfat, respectively, pursuant to subparagraph (2) of this paragraph.

(4) Divide the value for skim milk determined pursuant to subparagraph (3) of this paragraph by 0.965, which price shall be the Class III price per hundredweight for skim milk.

(5) Divide the value of butterfat determined pursuant to subparagraph (3) of this paragraph by 0.035, which price shall be the Class III price per hundredweight for butterfat.

(d) *Class IV milk prices.* The minimum prices per hundredweight to be paid by each handler for skim milk and butterfat in producer milk received and classified as Class IV milk shall be determined as follows:

(1) The price per hundredweight of such skim milk shall be the price determined pursuant to paragraph (a) (3) (i) of this section, divided by 0.965.

(2) The price per hundredweight of such butterfat shall be the price determined pursuant to paragraph (a) (3) (ii) of this section, divided by 0.035.

§ 967.6 Application of provisions—

(a) *Exempt milk.* Skim milk and butterfat disposed of as Class I and Class II milk on a route in the marketing area shall not be subject to the provisions of this order if (1) such milk is priced under another marketing agreement or order issued pursuant to the act and (2) the person making such disposition of milk in the marketing area is subject to regulation under such other mar-

keting agreement or order: *Provided*, That the handler making such disposition of milk in the marketing area shall at such time and in such manner as the market administrator may require, make reports to the market administrator which shall be subject to verification by the market administrator.

(b) *Diverted milk.* Producer milk diverted from a handler's plant to an approved plant or to a plant not an approved plant shall be deemed to have been received by the handler for whose account such milk was diverted.

(c) *Producer-handlers.* Sections 967.4, 967.5, 967.7, 967.8, 967.9, and 967.10 shall not apply to a producer-handler.

§ 967.7 Determination of uniform price—(a) Computation of value of producer milk. The value of producer milk received during each delivery period by each handler shall be computed by the market administrator by multiplying the pounds of skim milk and butterfat respectively allocated to producer milk in each class pursuant to § 967.4 (g), by the applicable class prices, adding together the resulting amounts, and adding the amounts computed as follows: Multiply the pounds of skim milk and butterfat subtracted from the various classes pursuant to § 967.4 (g) (3) by the respective applicable class prices.

(b) *Computation of uniform price.* For each delivery period, the market administrator shall compute the "uniform price" per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(1) Combine into one total the values computed pursuant to paragraph (a) of this section for all handlers who made the reports pursuant to § 967.3 and the payments pursuant to § 967.8 (d) for the preceding delivery period;

(2) Subtract, if the weighted average butterfat test of producer milk is greater than 3.5 percent, or add, if such butterfat test is less than 3.5 percent, an amount computed by: Multiplying the amount by which such weighted average butterfat test varies from 3.5 percent by the butterfat differential computed pursuant to § 967.8 (b), and multiply the resulting amount by the hundredweight of such milk;

(3) Add an amount representing the cash balance on hand in the producer-settlement fund, less the amount of unpaid obligations to handlers pursuant to § 967.8 (e) and § 967.11.

(4) Divide by the hundredweight of producer milk; and

(5) Subtract not less than 4 cents nor more than 5 cents (adjusting to the nearest one-tenth cent) from the amount computed under subparagraph (4) of this paragraph.

(c) *Notification to handlers.* On or before the 14th day after the end of each delivery period, the market administrator shall mail to each handler at his last known address, a statement showing (1) the amount and values of his milk in each class and the totals thereof; (2) the applicable minimum class prices and uniform price; (3) the amount owed by him to or the amount due him from the producer-settlement fund, pursuant to § 967.8 (d) or (e); and (4) the amount to

be paid by him pursuant to §§ 967.8 (a), 967.9, 967.10, and 967.11.

§ 967.8 *Payment for milk*—(a) *Time and method of payment.* Each handler shall make payments as follows:

(1) On or before the 18th day after the end of each delivery period, to each producer, except producers for whom payment is made to a cooperative association pursuant to subparagraph (2) of this paragraph, at not less than the uniform price for such delivery period pursuant to § 967.7 (b) adjusted by the producer butterfat differential pursuant to paragraph (b) of this section, for all milk received from such producer during such delivery period: *Provided*, That if by such date such handler has not received full payment for such delivery period pursuant to paragraph (e) of this section, he may reduce such payments uniformly per hundredweight for all producers by an amount not in excess of the per hundredweight reduction in payment from the market administrator; *And provided further*, That such handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(2) On or before the 15th day after the end of each delivery period, to a cooperative association with respect to milk caused to be delivered from producers' farms to such handler by such association for its account during such delivery period, not less than the value of skim milk and butterfat in such milk computed at the minimum class prices pursuant to § 967.5. For the purpose of determining the classification of skim milk and butterfat in such milk, such skim milk and butterfat shall be ratably apportioned among the skim milk and butterfat in such handler's Class I milk, Class II milk, Class III milk, and Class IV milk allocated to producer milk pursuant to § 967.4 (g).

(b) *Producer butterfat differential.* In making payments pursuant to paragraph (a) (1) of this section there shall be added to, or subtracted from, the uniform price, for each one-tenth of one percent of butterfat content in such producer milk above or below 3.5 percent, an amount computed by multiplying the average of the daily wholesale prices per pound of 92-score butter at Chicago during the delivery period as reported by the Department of Agriculture, by 0.12 and rounding to the nearest tenth of a cent.

(c) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit payments made by handlers pursuant to paragraph (d) of this section and payments related thereto pursuant to § 967.11 and out of which he shall make all payments to handlers pursuant to paragraph (e) of this section and payments related thereto pursuant to § 967.11.

(d) *Payments to the producer-settlement fund.* On or before the 16th day after the end of each delivery period,

each handler shall pay to the market administrator the amount by which the value of producer milk received by such handler during such delivery period pursuant to § 967.7 (a) minus the amount to be paid to a cooperative association pursuant to paragraph (a) (2) of this section, is greater than the amount to be paid producers pursuant to paragraph (a) (1) of this section: *Provided*, That with respect to milk for which a cooperative association receives payment from a handler pursuant to paragraph (a) (2) of this section, such cooperative association shall pay to the market administrator, on or before the 16th day after the end of each delivery period, the amount by which the utilization value of such milk is greater than the value computed at the uniform price pursuant to § 967.7 (b) adjusted by the producer butterfat differential pursuant to paragraph (b) of this section.

(e) *Payments out of the producer-settlement fund.* On or before the 17th day after the end of each delivery period, the market administrator shall pay to each handler the amount by which the value of producer milk received by such handler during such delivery period pursuant to § 967.7 (a) minus the amount to be paid to a cooperative association pursuant to paragraph (a) (2) of this section is less than the amount to be paid producers pursuant to paragraph (a) (1) of this section, less any unpaid obligation of such handler to the market administrator pursuant to paragraph (d) of this section, §§ 967.9, 967.10, and 967.11; *Provided*, That with respect to milk for which a cooperative association receives payment from a handler pursuant to paragraph (a) (2) of this section the market administrator shall pay to such cooperative association, on or before the 17th day after the end of such delivery period, the amount by which the utilization value of such milk is less than the value computed at the uniform price pursuant to § 967.7 (b) adjusted by the producer butterfat differential pursuant to paragraph (b) of this section: *And provided further*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments as soon as the necessary funds are available.

§ 967.9 *Expense of administration.* As his pro rata share of the expense incurred pursuant to § 967.2 (c) (4) each handler shall pay the market administrator, on or before the 16th day after the end of each delivery period, 4 cents per hundredweight, or such lesser amount as the Secretary from time to time may prescribe with respect to skim milk and butterfat received within the delivery period, in producer milk (including such handler's own production) and in other source milk (excluding milk which is subject to administrative expense of another Federal order issued pursuant to the act).

§ 967.10 *Marketing service*—(a) *Marketing service deductions.* Except as set forth in paragraph (b) of this

section, each handler, in making payments to producers pursuant to § 967.8 (a) (1), shall make a deduction of 4 cents per hundredweight of milk, or such lesser deduction as the Secretary from time to time may prescribe, with respect to the following:

(1) All milk received from producers (except milk of such handlers' own production) at a plant not operated by a cooperative association; and

(2) All milk received at plant operated by a cooperative association from producers who are not members of such association.

Such deductions shall be paid by the handler to the market administrator on or before the 16th day after the end of each delivery period. Such moneys shall be expended by the market administrator for verification of weights, samples, and tests of milk received from such producers and in providing for market information to such producers, such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Marketing service deduction with respect to members of, or producers marketing through, a cooperative association.* In the case of each producer (1) who is a member of, or who has given written authorization for the rendering of marketing services and the taking of deduction therefor to a cooperative association, (2) whose milk is received at a plant not operated by such association, and (3) for whom the Secretary determines that such association is performing the services described in paragraph (a) of this section, each handler shall deduct, in lieu of the deduction specified under paragraph (a) of this section, from the payments made pursuant to § 932.8 (a) (1) the amount per hundredweight on milk authorized by such producer and shall pay over, on or before the 16th day after the end of such delivery period, such deduction to the association entitled to receive it under this paragraph.

§ 967.11 *Adjustments of accounts*—(a) *Errors in payments.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (1) the market administrator from such handler, (2) such handler from the market administrator, or (3) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due; and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred following the 5th day after such notice.

(b) *Interest on overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to §§ 967.8, 967.9, 967.10, or paragraph (a) of this section shall bear interest at the rate of one-half of one percent per month, such interest to accrue on the 1st day of the calendar month next following the due date of such obligation and on the first day of each calendar month thereafter until such obligation is paid.

PROPOSED RULE MAKING

§ 967.12 *Effective time.* The provisions hereof, or of any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 967.13 *Suspension or termination—*
(a) *When suspended or terminated.* The Secretary shall, whenever he finds that this order, or any provision thereof, obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this order or any such provision thereof.

(b) *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this order, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

(c) *Liquidation.* Upon the suspension or termination of the provisions hereof, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so desired by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

§ 967.14 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

§ 967.15 *Separability of provisions.* If any provision hereof, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

Filed at Washington, D. C., this 26th day of September 1947.

[SEAL] F. R. BURKE,
Acting Assistant Administrator.

[F. R. Doc. 47-8874; Filed, Sept. 30, 1947;
8:46 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR, Part 43]

AIRCRAFT AND ENGINE DATA AND RECORDS

NOTICE OF PROPOSED RULE MAKING

SEPTEMBER 25, 1947.

The Safety Bureau of the Civil Aeronautics Board presents herewith a proposal to amend Part 43 of the Civil Air Regulations to provide that each aircraft shall carry either an Airplane Flight Manual or the aircraft operation limitations record and that such aircraft shall be operated in accordance with such a manual or operation record, whichever is applicable.

It is further proposed to amend § 43.24, *Aircraft and engine logs*, to more clearly set forth in this part, the provisions pertaining to the maintenance of aircraft and engine data.

The following amendments to Part 43 of the Civil Air Regulations are proposed:

1. Amend § 43.1010 to read as follows:

§ 43.1010 *Aircraft operation data.* An aircraft for which an airworthiness certificate is currently in effect shall not be operated unless there is available in the aircraft the appropriate aircraft operation limitations or a current Airplane Flight Manual, prescribed and approved by the Administrator, nor shall such aircraft be operated other than in accordance with limitations prescribed and set forth therein.

2. Amend § 43.24 to read as follows:

§ 43.24 *Aircraft and engine records.* The registered owner of a certificated aircraft shall be responsible for maintaining and keeping available for inspection by an authorized representative of the Administrator or the Board and for transfer with the aircraft or engine:

(a) Aircraft and engine records which shall contain a current, accurate, and permanent record to include, but not be limited to, the flight time of the aircraft and each engine, reports of inspections, minor repairs, and minor alterations of the aircraft structure, engines, and propellers. A mechanical device which records the total time of operation or the total number of engine revolutions may be used in lieu of individual flight entries: *Provided*, That the totals of flight time are recorded in the aircraft and engine records at periodic intervals to enable compliance with required inspections and maintenance procedures.

(b) A record of major repairs and alterations as required by Part 18 of this chapter. Reference to such major repairs and alterations shall be entered in the appropriate place in the aircraft records.

These regulations are proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended.

Pursuant to section 4 (a) of the Administrative Procedure Act the Safety Bureau hereby gives notice that these amendments will be recommended to the Board for adoption with an effective date 30 days after adoption.

It is the desire of the Safety Bureau that those interested submit written comments or suggestions regarding these proposals, addressed to the Safety Bureau, Civil Aeronautics Board, Washington 25, D. C. for receipt within 30 days from date of this public notice.

(52 Stat. 984, 1007; 49 U. S. C. 425, 551)

By the Safety Bureau.

[SEAL] JOHN M. CHAMBERLAIN,
Acting Director.

[F. R. Doc. 47-8860; Filed, Sept. 30, 1947;
8:54 a. m.]

NOTICES

POST OFFICE DEPARTMENT

MAIL SERVICE FOR MEMBERS OF ARMED FORCES OVERSEAS

CHRISTMAS MAIL TO BE MAILED BETWEEN
OCTOBER 15 AND NOVEMBER 15

Arrangements have been made by the Post Office Department in cooperation with the War and Navy Departments (including the Marines) for the acceptance of Christmas parcels for members of our armed forces serving outside the continental United States.

While requests for parcels from members of our armed forces are not required, many persons in this country will undoubtedly wish to send special Christmas parcels to their loved ones overseas, and these instructions are, therefore, issued with the view of assuring

their delivery on time and in good condition. Patrons should indorse each such gift parcel "Christmas Parcel" and special effort will be made to effect delivery of all Christmas parcels mailed during the period stated below in time for Christmas.

Time of mailing: Christmas parcels for overseas personnel should be mailed during the period beginning October 15, 1947, and ending November 15, 1947, the earlier the better. Parcels destined for delivery in Japan, Korea, and the islands in the Pacific should be mailed as early as possible during the period stated, preferably not later than November 1, in view of the distances involved.

It is suggested, however, that parcels for Navy and Marine Corps personnel serving in the most remote areas be

mailed not later than October 15. Parcels for such personnel known to be in an area which would permit mailing subsequent to October 15, may be deposited for mailing at a date selected by the sender.

Christmas cards for Army personnel overseas may be mailed at any time but patrons should mail such cards prior to November 15, 1947, if they are to have a reasonable expectation of delivery prior to Christmas.

The various services have pointed out that members of the armed forces are amply provided with food and clothing and the public is urged not to include such matter in gift parcels. The public can ascertain what articles their relatives and friends overseas can secure locally by correspondence with such person and

should limit their gifts to articles not readily obtainable by the recipient.

The regulations in Part 29 Mail Service for members of armed forces overseas of Title 39 CFR are applicable to Christmas mail for such persons.

[SEAL] ROBERT E. HANNegan,
Postmaster General.

[F. R. Doc. 47-8844; Filed, Sept. 30, 1947;
8:51 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

PEANUT MARKETING QUOTA REFERENDUM

The Secretary of Agriculture has duly proclaimed, pursuant to the provisions of the Agricultural Adjustment Act of 1938, as amended, a national marketing quota for peanuts for the marketing year beginning August 1, 1948.

A referendum of farmers who were engaged in the production of the 1947 crop of peanuts picked or threshed will be held on December 9, 1947, pursuant to the provisions of the act and applicable regulations, to determine whether such farmers are in favor of or opposed to such quota and to determine whether such farmers are in favor of or opposed to peanut marketing quotas for the 3-year period beginning August 1, 1948.

Registration. The operator of each farm on which the 1947 acreage of peanuts picked or threshed is more than one acre should file a completed Questionnaire, Form Peanut 1, with the county committee or otherwise inform a county or community committeeman of the names and addresses of all persons sharing the proceeds of such crop in order that their names may be listed on the register of eligible voters. The voting eligibility of any person may be challenged if his name is not recorded on the registration list.

Eligibility to vote. 1. All persons engaged in the production of peanuts in 1947 are eligible to vote in the referendum. Any person who as owner (other than a landlord of a standing-rent or fixed-rent tenant), tenant, or sharecropper, shares in the proceeds of peanuts produced in 1947 on a farm on which the acreage of peanuts picked or threshed is more than one acre, is considered as engaged in the production of peanuts in 1947.

2. If several members of the same family are engaged in the production of peanuts in 1947, the only member or members of such family who shall be eligible to vote shall be the member or members of the family who have an independent bona fide status as operator, share tenant, or share-cropper and are entitled as such to share in the proceeds of the 1947 crop.

3. No person shall be eligible to vote in any community other than the community in which he resides except as follows:

(a) Any person who resides in a community in which there is no polling place shall be eligible to vote at the polling place designated for the community nearest to the community in which he was engaged in the production of peanuts in 1947.

No. 192—f

(b) Any person who does not reside in or who will not be present in the county in which he engaged in the production of peanuts in 1947 may obtain a ballot at the most conveniently located polling place and may cast his ballot by signing his name thereto and mailing it to the office of the county committee in which he engaged in the production of peanuts in 1947 not later than the date of the referendum.

4. There shall be no voting by mail (except as provided in paragraph 3 above), by proxy, or by agent, but a duly authorized officer of a corporation, association, or other legal entity, or duly authorized member of a partnership, may cast its vote.

5. No person (whether an individual, partnership, corporation, association, or other legal entity) shall be entitled to more than one vote in the referendum, even though he may have been engaged in the production of peanuts on several farms in the same or in two or more counties, communities, or States in 1947.

6. In the event two or more persons were engaged in producing peanuts in 1947 not as members of a partnership but as tenants in common or joint tenants or as owners of community property, each such person shall be eligible to vote.

Done at Washington, D. C., this 25th day of September 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-8837; Filed, Sept. 30, 1947;
8:46 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 2948]

WEST COAST AIRLINES, INC.

NOTICE OF HEARING

In the matter of the application of West Coast Airlines, Inc., for amendment of its certificate of public convenience and necessity under section 401 of the Civil Aeronautics Act of 1938, as amended.

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, that a hearing in the above-entitled proceeding is assigned to be held on October 8, 1947, at 10:00 a. m., (eastern standard time) in Room 129, Wing E, T-5 Building located south of Constitution Avenue at 16th Street NW., Washington, D. C., before Examiner R. Vernon Radcliffe.

The application concerned requests amendment of the certificate of West Coast Airlines, Inc., for route No. 77 to include the town of Centralia, Washington, as co-designated with Chehalis and to reflect the change of name of the town of Marshfield, Oregon, to Coos Bay.

Without limiting the scope of the issues to be considered, particular attention will be directed to the following matter:

1. Whether the public convenience and necessity requires the amendments proposed.

Notice is further given that any person desiring to be heard in this proceeding must file with the Board, on or be-

fore October 8, 1947, a statement setting forth the issues of fact or law raised by said application which he desires to support or controvert.

Dated at Washington, D. C., September 25, 1947.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 47-8859; Filed, Sept. 30, 1947;
8:54 a. m.]

FEDERAL POWER COMMISSION

GEORGIA POWER CO.

NOTICE OF ORDER APPROVING AND DIRECTING DISPOSITION OF ACCOUNTING ADJUSTMENTS APPLICABLE TO ELECTRIC AND OTHER UTILITY PLANT

SEPTEMBER 25, 1947.

Notice is hereby given that, on September 18, 1947, the Federal Power Commission issued its order entered September 18, 1947, approving and directing disposition of accounting adjustments applicable to electric and other utility plant in the above-designated matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 47-8842; Filed, Sept. 30, 1947;
8:50 a. m.]

SOUTHWESTERN PUBLIC SERVICE CO.

NOTICE OF ORDER APPROVING AND DIRECTING DISPOSITION OF AMOUNTS CLASSIFIED IN PLANT ADJUSTMENT ACCOUNTS AND PLANT ACQUISITION ADJUSTMENT ACCOUNTS AND AMENDING ORDERS

SEPTEMBER 25, 1947.

Notice is hereby given that, on September 24, 1947, the Federal Power Commission issued its order entered September 24, 1947, approving and directing disposition of amounts classified in plant adjustment accounts and plant acquisition adjustment accounts and amending orders in the above-designated matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 47-8843; Filed, Sept. 30, 1947;
8:51 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-1004]

CITIES SERVICE CO.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 25th day of September A. D. 1947.

In the matter of application by the New York Curb Exchange for unlisted trading privileges in Cities Service Company, 3% Sinking Fund Debentures, due January 1, 1977; File No. 7-1004.

The New York Curb Exchange, pursuant to section 12 (f) (3) of the Securities

ties Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the 3% Sinking Fund Debentures, due January 1, 1977, of Cities Service Company, a corporation whose common stock is registered and listed on the Boston Stock Exchange and the Chicago Stock Exchange.

Rule X-12F-1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Philadelphia, Pennsylvania.

Notice is hereby given that, upon request of any interested person received prior to October 27, 1947, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Philadelphia, Pennsylvania. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 47-8849; Filed, Sept. 30, 1947;
8:52 a. m.]

[File Nos. 54-137, 59-58, 70-1178]

MIDLAND UTILITIES CO. ET AL.

ORDER RELEASING JURISDICTION OVER CERTAIN FEES AND EXPENSES

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pennsylvania, on the 23d day of September 1947.

In the matters of Midland Utilities Company, File No. 54-137; Indiana Service Corporation, File No. 59-58; American Gas and Electric Company, File No. 70-1178.

The Commission, by Order dated December 18, 1946, having approved the amended plan filed by Midland Utilities Company under section 11 (e) of the Public Utility Holding Company Act of 1935 for the corporate simplification of its subsidiary, Indiana Service Corporation (Indiana Service), such plan providing, in general, for the recapitalization of Indiana Service, resulting in a new issue of common stock and the sale of that common stock to American Gas and Electric Company (American Gas), a non-affiliated registered holding company, the proceeds of such sale to be allocated among certain classes of existing securities of Indiana Service which are to be cancelled; and

The Commission having in said Order reserved jurisdiction with respect to, among other things, the reasonableness and appropriate allocation of all fees and expenses and other remunerations in-

curred and to be incurred in connection with the plan and transactions incident thereto, except legal fees and expenses incurred by American Gas; and

Swiren Heineman & Antonow, and Satterlee, Warfield & Stephens, counsel for Midland Utilities Company, having submitted information regarding the services rendered by them for which a fee of \$25,000 and reimbursement of expenses in the amount of \$7,500 is requested by Swiren Heineman & Antonow, and for which a fee of \$7,500 and reimbursement of expenses in the amount of \$747.48 is requested by Satterlee, Warfield and Stephens, such fees and expenses to be paid by Midland Utilities Company; and The Commission, having considered the record and finding that said fees and expenses are not unreasonable:

It is ordered, That the jurisdiction heretofore reserved in the order of December 18, 1946 with respect to the payment of legal fees and expenses of Swiren Heineman & Antonow, and Satterlee, Warfield & Stephens be, and the same hereby is, released, jurisdiction over all other fees and expenses being continued in effect.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 47-8846; Filed, Sept. 30, 1947;
8:51 a. m.]

[File No. 70-1587]

CONSUMERS POWER CO.

SUPPLEMENTAL ORDER RELEASING JURISDICTION AND GRANTING AND PERMITTING APPLICATION-DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Philadelphia, Pa., on the 24th day of September 1947.

Consumers Power Company ("Consumers"), a public utility subsidiary of The Commonwealth & Southern Corporation, a registered holding company, having filed an application-declaration and amendments thereto pursuant to sections 6 and 7 of the Public Utility Holding Company Act of 1935 and Rule U-50 promulgated thereunder, regarding the proposed issue and sale by Consumers pursuant to the competitive bidding requirements of Rule U-50, of \$25,000,000 principal amount of additional First Mortgage Bonds, ----% Series, due September 1, 1977, and the transfer by Consumers of \$10,607,836.14 from earned surplus to common capital stock account; and

The Commission having by order dated September 11, 1947 granted said amended application and permitted said amended declaration to become effective, subject, however, to the condition, among others, that the proposed issue and sale of the bonds should not be consummated until the results of competitive bidding on the bonds pursuant to Rule U-50 had been made a matter of record in this proceeding and a further order had been issued by this Commis-

sion in the light of the record so completed; and

The Commission having reserved jurisdiction over the payment of the fees and expenses of all counsel in connection with the proposed transactions; and

A further amendment to the application-declaration having been filed on September 24, 1947, setting forth the action taken by Consumers to comply with the requirements of Rule U-50 and stating that pursuant to the invitation for competitive bids, the following bids for the bonds have been received:

Bidding group headed by—	Coupon rate	Price to company (percent of principal amount)	Cost to company
Kuhn, Loeb & Co. and Union Securities Corp. ¹	2%	101.67	2.7924
Harriman Ripley & Co. Inc., First Boston Corp.	2%	101.259	2.8109
Halsey, Stuart & Co., Inc.	2%	101.2825	2.8114
White, Weld & Co., Shields & Company	2%	101.275	2.8118
W. C. Langley & Co.	2%	101.17	2.8170
Glore, Forgan & Co.	2%	101.03	2.8239
Morgan, Stanley & Co.	2%		

¹ Sole members of group.

Said amendment having further set forth that Consumers has accepted the bid of Kuhn, Loeb & Co. and Union Securities Corporation as set out above, and that such bonds will be offered for sale to the public at a price of 102% of the principal amount thereof plus accrued interest from September 1, 1947 to the date of delivery, resulting in an underwriter's spread of 0.33% of the principal amount of said bonds; and

Said amendment having also set forth the nature and extent of legal services rendered and the fees requested therefor and the estimated expenses of counsel for which reimbursement is requested; and

It appearing to the Commission that such legal fees and expenses of counsel set forth in Table I below are not unreasonable and that jurisdiction of such matters should be released:

TABLE I

	Fees	Estimated expenses	Total
Winthrop, Stimson, Putnam & Roberts, counsel for Consumers.	\$15,000	\$200	\$15,200
Simpson, Thacher & Bartlett, counsel for successful bidders.	7,500	600	8,100
Total	22,500	800	23,300

The Commission having examined said amendment and having considered the record herein and finding no basis for imposing terms and conditions with respect to such matters:

It is ordered, That the jurisdiction heretofore reserved with respect to the matters to be determined as the result of competitive bidding under Rule U-50 and with respect to the fees and expenses of counsel be, and hereby is, released, and that said application-declaration as amended be, and it hereby is, granted and permitted to become effective forthwith, subject, however, to the terms and conditions prescribed in Rule U-24 and to the condition, imposing a restriction

on the payment of dividends on common stock, contained in our order of September 11, 1947.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 47-8851; Filed, Sept. 30, 1947;
8:52 a. m.]

[File No. 70-1593]

CONTINENTAL GAS & ELECTRIC CORP. ET AL.
NOTICE OF FILING

At a regular session of the Securities and Exchange Commission held at its office in the city of Philadelphia, Pa., on the 25th day of September A. D. 1947.

In the matter of Continental Gas & Electric Corporation, St. Joseph Light & Power Company, Maryville Electric Light and Power Company, File No. 70-1593.

Notice is hereby given that Continental Gas & Electric Corporation ("Continental"), a registered holding company subsidiary of The United Light and Railways Company, which is also a registered holding company, and its subsidiary public utility operating companies, St. Joseph Light & Power Company ("St. Joseph") and Maryville Electric Light and Power Company ("Maryville"), have filed joint applications-declarations with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act").

Notice is further given that any interested person may, not later than October 1, 1947 at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said applications-declarations which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania. At any time after October 1, 1947 said applications-declarations, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under said Act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said applications-declarations, which are on file in the offices of this Commission, for a full statement of the transactions therein proposed which are summarized below:

St. Joseph proposes to acquire from its parent, Continental, all of the outstanding common shares of Maryville, consisting of 17,712 shares of the par value of \$100 per share, in exchange for 17,712 shares of St. Joseph's common stock, \$100 par value per share. Upon the acquisition of the common shares of Maryville, St. Joseph proposes to cause the liquidation and dissolution of Maryville and acquire all of its assets and assume all of its liabilities. In connection with this transaction, St. Joseph proposes to

amend its Certificate of Incorporation to increase its authorized common shares from 35,000 shares to 45,000 shares.

St. Joseph also proposes to issue and sell \$990,000 principal amount of its First Mortgage Bonds, 2 7/8% Series, due 1976, at 101% of principal amount to three insurance companies as follows:

Bankers Life Co., Des Moines, Iowa	\$400,000
Equitable Life Insurance Co. of Iowa, Des Moines, Iowa	400,000
Central Life Assurance Society, Des Moines, Iowa	190,000

The new bonds are to be issued under the terms of a Second Supplemental Indenture supplemental to the existing indenture, dated April 1, 1946, from the company to Harris Trust and Savings Bank and Bartlett Boder, Trustees.

St. Joseph further proposes to borrow an aggregate amount of \$300,000, to be evidenced by its unsecured notes bearing interest at the rate of 2 1/8% per annum and maturing in amounts aggregating \$60,000 each year, beginning two years after date of issuance, until paid in full, from four banks as follows:

Harris Trust & Savings Bank, Chicago, Ill.	\$150,000
American National Bank, St. Joseph, Mo.	50,000
The First National Bank, St. Joseph, Mo.	50,000
The Tootle-Lacy National Bank, St. Joseph, Mo.	50,000

St. Joseph states that Rule U-50 is inapplicable to the proposed issuance and sale of its bonds, notes and common stock because of the exemptions provided by paragraphs (a) (3) and (a) (4) thereof.

The transactions proposed by Continental and Maryville are those corollary and necessary to the consummation of the foregoing program of St. Joseph.

The proposed transactions are stated to be for the purpose of strengthening the financial structure of St. Joseph and to facilitate the economical financing of construction and equipment required by the expanding operations of St. Joseph. It is further stated that the proposed transactions, including construction of new facilities, will permit economies of operation and personnel and will contribute to better and more reliable service by making the enlarged resources of the combined companies available to customers and that the liquidation of Maryville will simplify the structure of the holding company system of which it is a part.

Applicants-declarants state that the proposed transactions are subject to the jurisdiction of the Public Service Commission of Missouri and that the order of that Commission expressly authorizing such transactions will be filed herein by amendment. Accordingly, St. Joseph requests exemption pursuant to the third sentence of section 6 (b) of the act with respect to the issuance and sale of its bonds, notes and common stock.

Applicants-declarants further state that sections 6, 7, 9, 10 and 12 of the act and Rules U-42, U-43, U-44 and U-45 promulgated thereunder are or may be applicable to the proposed transactions and, in addition, request that, to the extent any other section of the act or the provisions of any other rule or regula-

tion is deemed applicable to the transactions, appropriate authorization be granted. It is also requested that the Commission's order herein become effective forthwith upon issuance.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 47-8848; Filed, Sept. 30, 1947;
8:52 a. m.]

[File No. 70-1625]

TEXAS UTILITIES CO. AND TEXAS POWER & LIGHT CO.

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pennsylvania, on the 19th day of September A. D. 1947.

Notice is hereby given that Texas Utilities Company ("Utilities"), a registered holding company subsidiary of American Power & Light Company, a registered holding company subsidiary of Electric Bond and Share Company, also a registered holding company, and Utilities' electric utility subsidiary, Texas Power & Light Company ("Texas"), have filed a joint application-declaration pursuant to the Public Utilities Holding Company Act of 1935, and have designated sections 6 (a), 7 and 12 (f) of the act and Rules U-45 and U-50 of the rules and regulations promulgated under said Act as applicable to the proposed transactions.

Notice is further given that all interested persons may, not later than October 1, 1947 at 11:00 a. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said application-declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania. At any time after 11:00 a. m., e. s. t., on October 1, 1947, said application-declaration may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under said act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said application-declaration which is on file with this Commission for a statement of the transactions therein proposed which may be summarized as follows:

Texas proposes to issue and sell, pursuant to the competitive bidding requirements of Rule U-50, \$8,000,000 principal amount of First Mortgage Bonds, -- % Series due 1977. Said bonds are to be issued under and secured by Texas' existing Mortgage and Deed of Trust dated as of May 1, 1945, as supplemented by a First Supplemental Indenture to be dated as of October 1, 1947. The proceeds from the sale of the bonds will be added to Texas' general cash funds and will be

used to finance the company's construction program and for other corporate purposes, including the repayment of such short term advances as may be obtained to finance the construction program prior to the sale of the bonds herein proposed to be issued. To the extent that the \$8,000,000 principal amount of bonds to be issued exceeds bonds issuable against fundable property at September 30, 1947, the cash proceeds from such issue will be placed in escrow with the Trustee to be withdrawn monthly on the basis of subsequent additions to fundable property.

Utilities proposes to make a cash contribution to the capital of Texas in the amount of \$2,000,000, which amount Texas will add to the stated value of its common stock. The sum so contributed may be used by Texas to repay bank loans, for general corporate purposes, or to call and retire a part of its preferred stock should it carry out a presently contemplated program of refinancing such stock.

In the application-declaration the companies agree that in the event an order shall be entered approving the proposed transactions, this Commission may make such reservations of jurisdiction as it deems appropriate with respect to the results of competitive bidding and the reasonableness of fees and expenses incurred in connection with the proposed transactions.

Applicants-declarants request that the Commission's order herein be issued as promptly as may be practicable and become effective upon the issuance thereof.

By the Commission,

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-8850; Filed, Sept. 30, 1947;
8:52 a. m.]

[File No. 70-1627]

**COLUMBIA GAS & ELECTRIC CORP. AND THE
MANUFACTURERS LIGHT AND HEAT CO.**

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission held at its office in the city of Philadelphia, Pennsylvania, on the 25th day of September 1947.

Notice is hereby given that a joint application-declaration has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by Columbia Gas & Electric Corporation ("Columbia"), a registered holding company, and by its subsidiary, The Manufacturers Light and Heat Company ("Manufacturers"). Applicants-declarants designate sections 6 (b), 9 and 10 of the act as applicable to the proposed transactions.

Notice is further given that any interested person, may not later than October 10, 1947, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said application-declaration proposed to be controverted, or may

request that he be notified if the Commission should order a hearing thereon. At any time thereafter such application-declaration, as filed or as amended, may be granted or permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated pursuant to said Act, or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania.

All interested persons are referred to said application-declaration, which is on file in the offices of this Commission, for a statement of the transactions therein proposed, which are summarized below:

Manufacturers proposes to issue and sell to Columbia \$6,000,000 principal amount of 3 1/4% instalment promissory notes, such notes to be unsecured and nonnegotiable and will be due in equal annual instalments on August 15 in each of the years 1950 to 1974, inclusive. The proceeds of such sale are to be used for the purpose of financing a major portion of the expense of an over-all construction program initiated in 1946, estimated to require an aggregate of \$9,000,000 through 1947. Of this amount, \$1,000,000 was obtained from the issuance and sale of notes in December 1946 (see Holding Company Act Release No. 7062). In this connection, the Pennsylvania Public Utility Commission, by order dated December 9, 1946, authorized the issuance of an aggregate of \$7,000,000 principal amount of notes as described above, subject to a stipulation that 20 days prior to the issuance of any such notes notice would be given to that commission, such notice to include information concerning the construction program. Applicants-declarants state that notification of the proposed issuance and sale of the \$6,000,000 principal amount of 3 1/4% notes was filed with the Pennsylvania Public Utility Commission on September 16, 1947.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-8847; Filed, Sept. 30, 1947;
8:52 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 9773]

THIEMO VON GUMPPENBERG

In re: Stock and a bank account owned by Thiemo von Gumpenberg. F-28-958-A-1; F-28-958-A-2; F-28-958-C-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Thiemo von Gumpenberg, whose last known address is Deining, Germany, is a resident of Germany and

a national of a designated enemy country (Germany);

2. That the property described as follows:

a. Sixty (60) shares of \$25.00 par value 5% original preferred capital stock of Southern California Edison Company, Ltd., 601 West Fifth Street, Los Angeles 13, California, a corporation organized under the laws of the State of California, evidenced by certificates numbered NO-6297 for fifty (50) shares and ND-6160 for ten (10) shares, registered in the name of Urell & Co., and presently in the custody of Central Hanover Bank & Trust Company, 70 Broadway, New York, N. Y., together with all declared and unpaid dividends thereon, and

b. That certain debt or other obligation of Central Hanover Bank & Trust Company, 70 Broadway, New York, N. Y., arising out of a Checking Account, entitled Dr. Richard or Mrs. Sophie K. Stern, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Thiemo von Gumpenberg, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 4, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-8864; Filed, Sept. 30, 1947;
9:07 a. m.]

[Vesting Order 9786]

FREDERICK HERMAN GUBSCH

In re: Estate of Frederick Herman Gubsch, deceased. File No. D-28-11759; E. T. sec. 15962.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law after investigation, it is hereby found:

1. That Selma Diesner, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country, (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person identified in subparagraph 1 hereof, in and to the estate of Frederick Herman Gubsch, deceased, is property payable or deliverable to, or claimed by the aforesaid national of a designated enemy country (Germany);

3. That such property is in the process of administration by Elsie G. Stickel, as executrix, acting under the judicial supervision of the Surrogate's Court of Essex County, State of New Jersey;

and it is hereby determined:

4. That to the extent that the person identified in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 12, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-8865; Filed, Sept. 30, 1947;
9:07 a. m.]

[Vesting Order 9791]

CAROLINE LANG

In re: Estate of Caroline Lang, deceased. File D-28-11880; E. T. sec. 16083.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Christina Link, Maria English, Johann Georg Esslinger, Karolyne Rombb, Emilie Singer and Wendelin Lang, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the estate of Caroline Lang, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by Joseph A. McTear of Philadelphia, Pennsylvania, as ad-

ministrator d. b. n. c. t. a., acting under the judicial supervision of the Orphans' Court of Philadelphia County, Pennsylvania;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 12, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-8866; Filed, Sept. 30, 1947;
9:07 a. m.]

[Vesting Order 9793]

JOSEPH MITSCH

In re: Estate of Joseph Mitsch, deceased. File D-28-11877; E. T. sec. 16076.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Rudolph Mitsch, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person identified in subparagraph 1 hereof in and to the estate of Joseph Mitsch, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany);

3. That such property is in the process of administration by Samuel Sapowitch, as administrator, acting under the judicial supervision of the Surrogate's Court of Erie County, New York;

and it is hereby determined:

4. That to the extent that the person identified in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate con-

sultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 12, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-8867; Filed, Sept. 30, 1947;
9:07 a. m.]

[Vesting Order 9794]

KIYO NAKAMURA

In re: Rights of Kiyo Nakamura under Insurance Contract. File No. F-39-4858-H1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Kiyo Nakamura, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the net proceeds due or to become due under a contract of insurance evidenced by Policy No. 382679 issued by the West Coast Life Insurance Company, San Francisco, California to Mataemon Nakamura, together with the right to demand, receive and collect said net proceeds, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

NOTICES

Executed at Washington, D. C., on September 12, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-8868; Filed, Sept. 30, 1947;
9:07 a. m.]

[Vesting Order 9799]

TOWN OF SOUTHERN PINES ET AL.

In re: Town of Southern Pines vs. Katharine Von Herff et al.; W. D. Matthews vs. Katharine Von Herff et al. File D-28-8482; E. T. sec. 9881; D-28-9788; E. T. sec. 13762.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Katharine Von Herff, Berta Van Taack, Susanna Katharina Van Taack, Karin Van Taack and Cornelius Van Taack, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the legitimate children of Berta Van Taack, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That the sum of \$1,713.65 was paid to the Attorney General of the United States by J. Vance Rowe, appointed Commissioner by the Superior Court of Moore County, North Carolina, in cases of Town of Southern Pines vs. Katharine Von Herff et al. and W. D. Matthews vs. Katharine Von Herff et al.;

4. That the said sum of \$1,713.65 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof and the legitimate children of Berta Van Taack, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property in the Attorney General of the United States by acceptance thereof on July 17, 1947, pursuant to the Trading with the Enemy Act, as amended.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 12, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-8821; Filed, Sept. 29, 1947;
8:47 a. m.]

[Vesting Order 9795]

RUDOLPH NIEHUS

In re: Estate of Rudolph Niehus, deceased. File D-28-8864; E. T. sec. 10967.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That John Lindhoff, Gerhard Lindhoff, Paul B. Lindhoff, Hans Lindhoff and Mrs. Anna Lindhoff Schulze, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the personal representatives, heirs, next of kin, legatees and distributees, names unknown of Maria Lindhoff, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the estate of Rudolph Niehus, deceased, is property payable or deliverable to, or claimed by the aforesaid nationals of a designated enemy country (Germany);

4. That such property is in the process of administration by Clara L. Niehus Ehrhardt, as Executrix, acting under the judicial supervision of the Probate Court of Hamilton County, Ohio;

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof and the personal representatives, heirs, next of kin, legatees and distributees, names unknown of Maria Lindhoff, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 12, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-8869; Filed Sept. 30, 1947;
9:07 a. m.]

[Vesting Order 9796]

NIKOLAUS RECKTENWALD

In re: Estate of Nikolaus (Nickolaus) Recktenwald, deceased. File D-28-11418; E. T. sec. 15653.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Katharina Bruck, Johann Bruck, Johann Recktenwald, Maria Huber, Johann Hahn, Anton Hahn, Fritz Hahn and Anna Bungert, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the children of Johann Bruck, names unknown, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 and the children of Johann Bruck, names unknown, and each of them, in and to the estate of Nikolaus (Nickolaus) Recktenwald, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

4. That such property is in the process of administration by Peter Gross, as executor, acting under the judicial supervision of the Orphans' Court of Allegheny County, Pennsylvania;

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof and the children of Johann Bruck, names unknown, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 12, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-8870; Filed Sept. 30, 1947;
9:07 a. m.]

[Vesting Order 9851]

AUGUST STREUBER

In re: Estate of August Streuber, deceased. File No. D-28-11818; E. T. sec. 16023.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Friederika Streuber Kopplus, Marie Muller Walter, Martha Eismann, Anne Muller Meister and Franz Streuber, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof, and each of them, in and

to the estate of August Streuber, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by Philip Barth, as executor, acting under the judicial supervision of the Surrogate's Court of New York County, New York;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been

made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 17, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-8871; Filed, Sept. 30, 1947;
9:07 a. m.]

